

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

Revenue Committee
February 03, 2010

[LB983 LB1002 LB1073 LB1081]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 3, 2010, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB983, LB1002, LB1073, and LB1081. Senators present: Abbie Cornett, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Greg Adams; Galen Hadley; LeRoy Louden; Pete Pirsch; Dennis Utter; and Tom White. Senators absent: None.

SENATOR CORNETT: (Recorder malfunction)...to my left is Vice Chair Senator Dierks from Ewing. Senator Greg Adams will be joining us, from York. To his left is Senator Hadley from Kearney. To my far right is Senator Pete Pirsch from Omaha. LeRoy Louden from Ellsworth is just sitting down. Senator Utter will be joining us, as will Senator White. The research analysts today are Steve Moore, to my left, who will be joining me, and Bill Lock, to my right. The committee clerk is Erma James. Pages today are Abbie Greene and Ryan Langle. Before we begin hearings today, I'd please advise everyone to turn your cell phones to either off or vibrate. The sign-in sheets for testifiers are on the table by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, please hand your testifier's sheet to the committee clerk. There are clipboards in the back of the room to sign in if you do not wish to testify but wish to indicate either your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted at the door. The introducer or representative will present the bill, followed by proponents, opponents, and neutral testimony. Only the introducer of a bill will be allowed closing remarks. As you begin your testimony, please state and spell your full name for the record. If you have handouts, please bring ten copies for committee and staff. If you only have the original, we will make copies for you. Please give the handouts to the pages to circulate to the committee. With that, we will begin the Revenue hearings for the day. Senator Karpisek, you are recognized to open on LB983. [LB983]

SENATOR KARPISEK: (Exhibit 1) Thank you, Senator Cornett, members of the committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District in the Legislature. LB983 was the outcome of Senator Dierks' LR230 that was the interim study on the Bankshot device, as it has been called. I don't know what else to call it. Right now, the game is in court and it's being decided whether the game is legal or illegal. My bill has nothing to do with trying to make it legal, to say that it is legal, whether it is illegal. It comes down to if it's a game of skill or if it's a game of chance. Games of chance are illegal. In reality, picking up a duck with a number on the bottom to win a prize, there's no skill involved unless there is a mirror on the bottom and you could see the number, but games of skill are legal; games, as we have pool tournaments, golf tournaments, dart tournaments, anything

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

Revenue Committee
February 03, 2010

that involves skill. The point on this game is that is it a game of skill or is it a game of chance? Again, that is not my intent to say one way or another. However, these games are out in the community. There are roughly 400-plus of them out being played now. What I'm trying to do is to capture some of that revenue, or some revenue from them if they're out there, and if they would be found legal to continue to capture that revenue. Again, the pending court case will decide the legality. This is only...the only issue here is regulating and taxing these machines. Attorney General Jon Bruning has said the machines will not be picked up until the case is disposed of. I have handed out a letter from Attorney General Bruning which has said that is his intent. The bill would dedicate the money to go to horse racing to allow for the building of a new track and enhanced purses. As we know with the removal of the State Fair to Grand Island and the university taking over the State Fairgrounds, the track, the horse track there will be out in 2012, or the current negotiation is to 2012 to let the horses run. In my opinion and others' opinion, once that track is gone, if we don't have another track up and going in the state, horse racing as we know it will probably be done in the state of Nebraska. It's already struggling. I think Senator Stuthman has a bill in to try to limit the number of days they have to run in Columbus. It's really a tough go right now. Now, part of the argument is, is horse racing worth saving? In my opinion it is. It goes a lot further than just the people that go to the track to bet. It goes to the groomers, it goes to the feed suppliers, it goes to the jockeys, anyone that is involved. And I think that the economic impact is pretty big, not to mention that I think it is a good sport and one that is well respected by Nebraskans. It is hard to compete against some of the other forms of gambling that we have made legal in Nebraska: the lottery, all sorts of other things. Plus all the illegal gambling that goes on in the state: the Internet betting, the other things. With the Super Bowl coming, I'm sure we could all think of a lot of ways to bet on the Super Bowl. Anyway, that is the reason for this bill, is to try to capture 20 percent of the revenue from these machines--it's drafted after the keno bill--and move it over to the horse racing track. We had a little different strategy until we saw the fiscal note on this. And the fiscal note says that it would take money out of General Funds. That obviously is not our intention. The argument is that there will be less betting on the other charity games, so it will drag down what we get. My intention, if this could move on, to try to work with the fiscal staff and maybe take some of the percentage out of the horse racing and put it into the General Fund so we'd at least come out revenue neutral. Again, the question may be: Why don't we just put it all toward the General Fund if we're going to do this, if the court finds this is a legal game? I'm sure there will be more along the way. Again, horse racing, I think, does more than just what you see up front and I think that we need to keep it. I would even be willing to maybe talk about a sunset in the bill. Or if we don't go that way, I would almost think with another one of my bills on satellite gaming, if the good senators may see their way to get that out to a vote of the people, they probably wouldn't need that money long term. This would hopefully be a short-term shot in the arm for the horse racing industry. With that, I would try to answer any questions. [LB983]

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

Revenue Committee
February 03, 2010

SENATOR CORNETT: Senator Dierks. [LB983]

SENATOR DIERKS: Thank you, Senator Cornett. Senator Karpisek, you mentioned something about awaiting a court decision. Could you expand on that just a little bit? [LB983]

SENATOR KARPISEK: Well, Attorney General Bruning has a...well, I shouldn't say that. Attorney General Bruning picked some of these machines up and had them tested to see if they were a game of skill or a game of chance. There were two different companies that tested them. One came back and said it's a game of skill--illegal. The other one said they didn't know. So on that, the Attorney General said that, well, it wasn't conclusive. So he did pull some more and had it tested again. In the meantime, the owners of these machines or the manufacturers filed a court case on it to see if they are legal or illegal. And there will be people behind me that can tell you more about that. But in the interim, as you see, Attorney General Bruning has agreed not to confiscate any more of the machines. [LB983]

SENATOR DIERKS: Okay. And the other thing I was going to ask you is you say the funding is going to go to the State Racing Commission. [LB983]

SENATOR KARPISEK: Yes. [LB983]

SENATOR DIERKS: And what will they be expected to do with it? [LB983]

SENATOR KARPISEK: They will try...make the purses...they could increase purses, try to enhance horse racing, try to get bigger, better stakes involved. But the main push would be to build a new track here in Lincoln, a mile track. And I'm sure someone behind me can expand further on that too. But out at the...near the Lancaster Event Center is the idea behind that. [LB983]

SENATOR DIERKS: Thank you. [LB983]

SENATOR KARPISEK: Thank you. [LB983]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you, Senator Karpisek. Will you remain for closing? [LB983]

SENATOR KARPISEK: Thank you. I will. [LB983]

SENATOR CORNETT: Could I see a show of hands for the people that are here to testify for the bill? May I see a show of hands for people here that are here to testify against the bill? [LB983]

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

Revenue Committee
February 03, 2010

WALT RADCLIFFE: Madam Chair and members of the committee, my name is Walter Radcliffe. I'm appearing before you today as a registered lobbyist in support of LB983 on behalf of the Nebraska Benevolent Horsemen's Association and also Nebraska Technical Services. I think you all know who Horsemen are. Nebraska Technical Services is a company that operates the Bankshot machines. And as Senator Karpisek said, this is not a hearing about the Bankshot machines. It is not a hearing about legalizing...quote, legalizing them or doing anything with them. Senator Dierks, that's a case that's pending in Lancaster County District Court and it is currently in discovery. Interrogatories have been exchanged. And the real question that the court is going to determine, at least from what I can see from the pleadings and speaking with the lawyers, is whether or not the Bankshot game is a game of a skill or a game of chance. And if you'll notice in the bill that you have in front of you, there is a specific statement in there that nothing in this bill is designed to address that question of whether it's a game of skill or a game of chance. So we're not trying to get this, quote, legalized; simply, as Senator Karpisek said, to generate some revenue if the court and until the court decides and if the court does allow it. The reasons the Horsemen support this are rather obvious. I mean, they derive a benefit. The reason the operators support it is because they have, quite frankly, heard Senator Dierks and his admonitions about the game is not sufficiently taxed and regulated. Currently, it is taxed just as any other amusement device would be, whether that was a pool table, a pinball machine, a dart game, a tee game, and they buy the occupation stamps. This would place a tax on the revenue from the machine. Now, the fiscal note, and I am not...I don't want to at all belabor the fiscal note, because I've spoken both with Doug Gibbs in the Fiscal Office who was the fiscal officer assigned to preparing it, and also to Doug Ewald, the Tax Commissioner. They have made certain assumptions. And frankly, I'm not going to argue whether they're right or wrong. I'm just going...I well accept them for the sake of argument, which says that the General Fund would be negatively impacted as a result of some other losses if, in fact, these machines were out there. I have every reason to believe that any General Fund loss can be offset with a redirection of a sufficient amount of revenue to the General Fund. And, quite frankly, the Horsemen aren't going to end up with as much. But this bill really does two things, and one is it, over and above everything else, puts a tax on the machines. Secondly, it directs where the funds go. I would submit that the policy decision for the committee to make is, (a) whether or not the tax is appropriate, and then (b) obviously the tax...you know, I've come before this committee how many times, and I'm always arguing usually against raising taxes. Finally, I finally get one client that says "tax me." And what happens? I'm told the state loses money. Yeah, I...you know, if I can figure this out on some others, I'm going to have a heck of a lot better arguments. But I think we can (laugh)...I think we can make the fiscal note balance. And I've spoken with Senator Cornett and also with Senator Karpisek, and we'll keep them involved and informed, and hopefully Senator Cornett will be able to report back to the committee with a resolution. You've got a lot of people here, long day. I'll be happy to answer any questions. [LB983]

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

Revenue Committee
February 03, 2010

SENATOR CORNETT: Senator Hadley. [LB983]

SENATOR HADLEY: Senator Cornett, thank you. Walter, just a couple quick questions. This in no way would open the door for video poker or something like that... [LB983]

WALT RADCLIFFE: No. This is not...excuse me, I interrupted, Senator. [LB983]

SENATOR HADLEY: No, that was my question. [LB983]

WALT RADCLIFFE: No, this is not Class III gaming. It's really a question...again, and I'm sounding...the bright line of skill/chance. Is this a game of skill; is it a game of chance? That's what the court is going to decide. There are a lot of other games of skill out there: a pinball machine, pool tables, dart machines, the tee golf thing. All of those are games of skill. And in those instances they're only--I say only--tax is what the occupation stamp tax is; and then, of course, the various entities that derive income from them pay a state income tax on it. [LB983]

SENATOR HADLEY: My second question is, I guess is more of a policy issue...kind of, why thoroughbred racing? What is the underlying purpose that we...should it be just like any other industry? And if times change, times change. [LB983]

WALT RADCLIFFE: Senator Karpisek, as Chairman of the General Affairs Committee and as a member of it before that, has listened to the thoroughbred racing industry coming in time after time after time, and describing the circumstances they find themselves in and seeking revenue. And when he was...and I'm...he's got a chance to close so he could correct me if I'm making it wrong. Same when Senator Dierks wanted to look at this, I remember Senator Karpisek said, well, maybe we can direct some of this money to horse racing. Now, quite honestly, he didn't say maybe we can direct it all, but it, very honestly, was a lot easier to draft a bill, send the money one (inaudible). And as you said, Senator Hadley, this is a policy decision. I cannot articulate a policy as to why it should go to horse racing any more so than why it should not go to some other particular entity. So you're right when you say it's a policy decision, and that's the...you know, the Horsemen probably...if they don't get some of the money, they don't care, okay? But the people that operate and manufacture the machines would still be supportive because I think they're responsive to the point that Senator Dierks raised. [LB983]

SENATOR CORNETT: Senator Dierks. [LB983]

SENATOR DIERKS: Walt, I have kind of a procedural question. Who regulates the gambling machines? Who has the authority to decide what the payoff is going to be and how much...who does that sort of stuff? [LB983]

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

Revenue Committee
February 03, 2010

WALT RADCLIFFE: Well, first of all, they aren't gambling. Gambling machines aren't legal, okay? But who decides how many free plays you get on a pinball machine or how much the jackpot is on a tee game or what dart leagues pay quite frankly is determined by the people that run the machines. Now I do believe that, like the tee golf thing, which I've never won at, but I think that is somewhat cumulative with regards to how many people play. So there's a formula, if you will. On pinball machines, if we all think there's always that little deal that says, you know, if you get so many points, you win so many games. Darts, I've never really been a good dart player so I can't honestly tell you how much...I've seen some tournaments where they post what the prizes are. And usually that has something to do with what people pay to play. So it's usually those people that are running the machines and/or it can be the jackpot, if you will, or the payout could be participant-based. [LB983]

SENATOR DIERKS: Thank you. I have another question. It's kind of...if this were to be decided to be a game of chance, that would probably mean that there was a payout of some kind. [LB983]

WALT RADCLIFFE: No, sir. If it was determined to be a game of chance...well, you can have a payout whether it's...you can have a payout on a game of skill or a game of chance. The fact that there's a payout is not the determining factor as to whether it's skill or chance. What is determinative of that, quite frankly, is why you're in a court for the judge to hear what the experts have to say as to whether it's a game of skill or chance. The Nebraska Supreme...I mean just to briefly illustrate, the Nebraska Supreme Court has held that poker is a game of chance...or, you know, is...other Supreme Courts, other courts have held it's a game of skill. I guess you don't want to throw away four aces. To that extent, it's probably a game of skill. And whether you draw four aces or not is probably a game of chance. [LB983]

SENATOR DIERKS: Okay. Thanks, Walt. [LB983]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB983]

WALT RADCLIFFE: Thank you, Senator. [LB983]

SENATOR CORNETT: Next proponent? Are there any opponents? Is there anyone here to testify in a neutral capacity? Senator Karpisek. [LB983]

SENATOR KARPISEK: Usually my bills have a lot of opponents, so. (Laughter) Sorry I didn't bring my cheering section. [LB983]

SENATOR CORNETT: I was going to say I thought they were all here for you. [LB983]

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

Revenue Committee
February 03, 2010

SENATOR KARPISEK: (Laugh) I did too. Senator Hadley asked, why horse racing? It is in trouble and we need to. The other reason is, Walt was correct, this really was my idea, whether you will want to believe that or not. I really did think of it, to take this money and put it toward horse racing because I have heard, for four years now, about how they need money. The other issue is, it's my bill and I thought of it and I brought it, so I'm first. And Walt is also correct, whether the committee decides, the body decides that, yes, we will give it to horse racing or not, I think we should have money captured by this if it is decided to be legal. This court case could drag on. I don't know how long that this could drag on. But if that drags on, we're leaving something out there that's really not taxed very much; like Walt said, just a little bit, like a pinball machine. Walt also talked about the tee machine and things like that. I don't know that we got across that these games, Golden Tee, Big Buck Hunter that maybe you've seen, they do pay off. You put your name in, your initials in when you play. If you get a high score, and if at the end of the month, a year, I don't know, I've never done well enough to get any money...but at the end of that period, they'll send you a check. They'll probably maybe send it to the bar or wherever it's at, but say, oh, Senator Karpisek, won. He was the fifth highest in the state or the country, wherever, and here's 50 bucks or something. I did not realize that. Maybe I shouldn't let that cat out of the bag. But it's a game of skill and not a game of chance is the whole issue there. So these things are out there. They're running, these Bankshots are running like that. We're leaving money on the table, folks. I guess that's the main point of this bill. The people who manufactured this game have said, yeah, there should be some tax on it; we agree; we're fine with that. But we have to get past this legal point. So this is just up until the court hearing and what's found. Senator Dierks asked, you know, what...say, it's found illegal, then the whole thing goes away. They're illegal. They go away, and nobody...then this bill would go away, too, so. I would take some questions. [LB983]

SENATOR CORNETT: Senator Dierks, then Senator Utter. [LB983]

SENATOR DIERKS: Thank you, Senator Cornett. Senator Karpisek, do you have any knowledge of other states and how they're handling this particular game, this Bankshot? [LB983]

SENATOR KARPISEK: I do not, Senator. Everybody's gambling laws are different, you know. Iowa, all the states around us, it would probably be a moot point because they legalized gambling. So in other states, I do not. I don't know that they are even out there because the way I understand it, the two manufacturers are Nebraska-based. [LB983]

SENATOR DIERKS: Okay. Thank you. [LB983]

SENATOR CORNETT: Senator Utter. [LB983]

SENATOR UTTER: Thank you, Senator Cornett. Senator Karpisek, are you aware

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

Revenue Committee
February 03, 2010

whether or not, has the, this Golden Tee or whatever it is--I don't know that I've got these names right--and is it Big Buck? [LB983]

SENATOR KARPISEK: Big Buck Hunter. [LB983]

SENATOR UTTER: Big Buck Hunter. Have they passed the Attorney General's test to determine whether they are not games of chance or...? [LB983]

SENATOR KARPISEK: I do not know that, Senator. I could find out, but... [LB983]

SENATOR UTTER: Are there other games out there similar? [LB983]

SENATOR KARPISEK: I'm trying to think of... [LB983]

SENATOR UTTER: I'm just testing now just how many bars you've been in? (Laughter) [LB983]

SENATOR WHITE: Senator, it's already going to be a long hearing. (Laughter) [LB983]

SENATOR KARPISEK: Yeah. You don't want me to list them all. That's called campaigning, Senator. And there are...I know of Golden Tee and Big Buck Hunter. I'm just trying to think of other ones that I see and I can't think of any, but I suppose a pool game maybe. [LB983]

SENATOR UTTER: So we don't know whether they have passed any type of a skill or gambling test then, at all? [LB983]

SENATOR KARPISEK: Well, if you're no good at golf, if you can't spin that ball, you're not going to get better. It's, you know, kind of like real golf. You have to practice at it. You know, the game of skill. If you can do it over and over and get better at it, it's skill. If you...I don't know...cards. [LB983]

SENATOR UTTER: That's not true with real golf? (Laughter) [LB983]

SENATOR KARPISEK: Well, no. It tends to be...maybe you're better in the long run. But I agree, I'm not good at it. [LB983]

SENATOR UTTER: Thank you. [LB983]

SENATOR CORNETT: Senator Hadley. [LB983]

SENATOR HADLEY: Yes, Senator Cornett, Senator Karpisek. Just so I understand this. We've talked a lot. Bankshot, is that the name of the...? [LB983]

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

Revenue Committee
February 03, 2010

SENATOR KARPISEK: Yes. [LB983]

SENATOR HADLEY: I am going to have to be honest, I've never seen it so I don't know. I guess, this in no way opens the door for other games like Bankshot, or does it? We keep talking about Bankshot and that court case, but could this open the door for other similar games? [LB983]

SENATOR KARPISEK: I would say that it would, Senator. And again it's all on that court case. This bill would not go one way or another. [LB983]

SENATOR HADLEY: So this bill doesn't determine legality or we're not... [LB983]

SENATOR KARPISEK: Not at all. Not in the least. [LB983]

SENATOR HADLEY: Nobody is going to say that we passed a law that suddenly makes this legal... [LB983]

SENATOR KARPISEK: Right. [LB983]

SENATOR HADLEY: ...and we've expanded gambling or anything (inaudible)? [LB983]

SENATOR KARPISEK: No. Again, the Attorney General's letter saying he won't confiscate them until there is a hearing. There is another bill by Senator Fulton to be heard in Judiciary to say that if it is determined to be legal, the payouts won't be more than \$10. So there are two bills on the Bankshot. And again, I think we already have some of these games in the state; however, I think it's very easy, in my opinion anyway--I'm not the Attorney General--to say the Golden Tee game to play golf is a game of skill. The same with Big Buck Hunter. You have a gun and you shoot things that run across the screen. It takes skill to do that. You can't just get lucky and do better. It could open that up. I guess in my opinion they are already here. And if it does, we have something in place to capture that revenue. [LB983]

SENATOR HADLEY: One last question. There is nothing to the rumor that you'll have one of these in your office if this is deemed to be legal? [LB983]

SENATOR KARPISEK: We wanted to have one there for the senators to come look at, but then we thought, by legal counsel, that it might not be such a great idea. [LB983]

SENATOR CORNETT: Any further questions from the committee? Seeing none. That closes the hearing. [LB983]

SENATOR KARPISEK: Thank you. [LB983]

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

Revenue Committee
February 03, 2010

SENATOR CORNETT: Thank you, Senator Karpisek. That closes the hearing on LB983. Senator Louden, you are recognized to open on LB1002.

SENATOR LOUDEN: (Exhibit 2) Good afternoon, Senator Cornett and members of the Revenue Committee. My name is LeRoy Louden and I represent District 49. The last name is spelled L-o-u-d-e-n. Today I bring before you LB1002, a bill that would use state sales tax revenue generated from alcohol sales within 30 miles of a census designated place in Nebraska that is associated with an Indian reservation. Revenue would be used for economic development, healthcare, and law enforcement. I attended a joint Judiciary hearing this past summer, one in Lincoln and one by satellite in Chadron. The Native Americans from the Lakota Tribe testified at the hearing in Chadron. The outcome of the hearing was that everyone agreed there are serious health problems and economic problems in the Pine Ridge area and adjoining areas in Nebraska. The Pine Ridge Reservation across the border in South Dakota from northwest Nebraska has a population of between 35,000 and perhaps as many as 50,000 people. The town of Pine Ridge has a population of approximately 3,500 people. Whiteclay is really an extension of the town of Pine Ridge, South Dakota. There are businesses besides the liquor establishments in Whiteclay such as grocery stores, repair work, craft stores, and so forth. Over the years Whiteclay has become a bull's-eye for criticism for alcoholism on the reservation and surrounding area. Whiteclay with its distribution of beer near a populated area, no doubt, contributes to the problem. But that is not the sole cause of the alcoholism on the Pine Ridge Reservation. Other liquor and spirits are brought onto the reservation from somewhere else because the only beer is sold in Whiteclay. Now on this bill, LB1002, as you notice, the fiscal note has to be adjusted. I have an amendment, AM1651, that's being passed out there that cuts the fiscal impact down considerably. When the bill was drafted, the Bill Drafters were trying to figure out a way to describe Whiteclay in statutes, hence the language, a city or village that is associated with an Indian reservation. I questioned about the Native American village in eastern Nebraska, and the answer from the Bill Drafters was that they wouldn't be involved. But when the Fiscal Office began work on the bill they decided that Macy in eastern Nebraska would be included. So, hence, the fiscal note turned to the numbers such as they are there now. The Fiscal Office then included a turnback area around Macy and increased the fiscal note as it is published in the paper. I pointed this out to supporters and the agreement was to address the problem in northwest Nebraska and that was our sole purpose of LB1002. So I've introduced along with the bills here, AM1651, that put wording in the bill that directs the impact of LB1002 to the area that we've been working on to address healthcare, law enforcement, and economic development. By leaving out the Macy area, it will reduce the fiscal note by approximately two-thirds. You will also note the cost of administration is way too high. We are searching another agency to implement the program. The staff of the Liquor Control Commission has been greatly reduced. Therefore, I'm looking into agencies that are better prepared to administer the acquired funding. At the time when we introduced

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

Revenue Committee
February 03, 2010

LB1002, we used the formula that I think came from Senator Ashford's office and went with that one. And we discussed about putting it with the Liquor Control Commission. Well, in the meantime, they've lost considerable staff, so consequently you'll see a \$98,000 fiscal note, in the fiscal note for administration, and I think that's way too high for the amount of money we're talking about. This bill is not going to solve all the problems but it's a chance to help these people and to try to make a difference. Of the past eight sessions that I've served in the Legislature, I've attended many meetings in Pine Ridge and surrounding areas dealing with Whiteclay issues. Of all the meetings involved, this is the first time that the Legislature has been involved. There have been meetings with Governors, there have been meetings with Congressmen, there have been meetings with Attorney Generals, and just generally there have been meetings with local people. But this is actually the first time that I've been around here in the eight years that the Legislature has been involved. They've had...the Judiciary Committee and the General Affairs Committee had joint hearings twice this last summer to see what could be done and some of the senators have traveled out there. And as a proud member of the Unicameral, I feel that now the Legislature can and should address the problems and take action on these Pine Ridge, Whiteclay issues. I would ask that you support this bill and that AM1651 be adopted. I'll also ask that we hold the bill while we will be working on it to find another agency, an amendment to direct another agency for the funding, because I feel that the administration costs can be considerably lower than what it is. As you look at the fiscal note for the second year out, it's about \$266,000 and that was what the target was all along was in that range someplace to help with that area. This is something that I think would probably do quite a little bit of good. It isn't a great deal of money but this is actually the first start we've ever had. With that, I would be pleased to answer questions. [LB1002]

SENATOR CORNETT: Senator Pirsch. [LB1002]

SENATOR PIRSCH: This is just a question. How close...Whiteclay is in Sheridan County and your amendment deals with counties that according to the most recent federal decennial census have fewer than 6,400 inhabitants. It's your way of excluding Macy and your County out of it? [LB1002]

SENATOR LOUDEN: Yes, with that amendment. [LB1002]

SENATOR PIRSCH: How close...I mean, what is the population, do you know? Is that apt to change with the next decennial? [LB1002]

SENATOR LOUDEN: Sheridan County? [LB1002]

SENATOR PIRSCH: Yeah. [LB1002]

SENATOR LOUDEN: Probably decrease. That's what they tell us because this was the

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

Revenue Committee
February 03, 2010

one ten years ago and they keep telling us we've lost about 8 percent of our population in those counties out there. [LB1002]

SENATOR PIRSCH: So it's not on the border with 6,400 right now? [LB1002]

SENATOR LOUDEN: No, it's...actually we thought Sheridan County was probably about 6,100 but I think that will decrease in the meantime. [LB1002]

SENATOR PIRSCH: Okay. Thanks. [LB1002]

SENATOR CORNETT: Senator Adams. [LB1002]

SENATOR ADAMS: Senator Louden, the...as I peruse the bill, the State Liquor Commission will administer the grants, is that correct? [LB1002]

SENATOR LOUDEN: That was the way the bill was drafted but in, like I say, we didn't get the fiscal note until yesterday afternoon and then when I saw that \$98,000, they have to have two full-time employees and a staff member, and their problem is that they've cut staff and cut staff and if they do it, they got to have more people. So in the meantime I've been looking at some other agencies, Health and Human Services, or whether Department of Economic Development to see if we can find other ways to cut down that cost of administration. [LB1002]

SENATOR ADAMS: On the other side of the grant application, the applicants...it says political subdivisions. Tell me what was your vision here? Give me an example of what you'd like to see happen. [LB1002]

SENATOR LOUDEN: Well, there...healthcare facilities and the reason they're put in there, economic development, because out in those areas there's Gordon, Hay Springs, some in Rushville and Hemingford, which is out of the district, but actually economic development is nursing homes for them and that's what they've been done. Right now we're looking at probably whether it's detox centers or something like that, but some type of healthcare facilities that would impact that particular area there. [LB1002]

SENATOR ADAMS: But it could be the county that makes application, it could be one of the cities or villages? [LB1002]

SENATOR LOUDEN: Yes. [LB1002]

SENATOR ADAMS: That makes application? [LB1002]

SENATOR LOUDEN: Yes. [LB1002]

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

Revenue Committee
February 03, 2010

SENATOR ADAMS: Would the applicants also have to be within that radius? [LB1002]

SENATOR LOUDEN: In that 30 mile radius, yes. [LB1002]

SENATOR ADAMS: Okay. Thank you. [LB1002]

SENATOR CORNETT: Senator Utter. [LB1002]

SENATOR UTTER: Thank you, Senator Cornett. Senator Louden, the sales tax off of the beer is going to be...is that the total sales tax, the full state sales tax? [LB1002]

SENATOR LOUDEN: Seventy percent is what the bill is... [LB1002]

SENATOR UTTER: Okay. The 70 percent, though, but that's figured on...sales tax on beer is the same as it is on anything else, right? [LB1002]

SENATOR LOUDEN: Yeah. It's all 5.5 percent, the same...beer and... [LB1002]

SENATOR UTTER: What about the local option tax? Are there any of the cities involved in this area that have a local option sales tax? [LB1002]

SENATOR LOUDEN: Yes, but that wouldn't affect it because we're just taking the sales tax portion of it. [LB1002]

SENATOR UTTER: The state portion. [LB1002]

SENATOR LOUDEN: State portion. [LB1002]

SENATOR UTTER: Thank you. [LB1002]

SENATOR CORNETT: Further questions from the committee? Senator Hadley. [LB1002]

SENATOR HADLEY: Senator Cornett. Senator Louden, if the concern is at times with the people that live in South Dakota, how will this help or will it help those people at all? [LB1002]

SENATOR LOUDEN: Well, I would say indirectly. First of all, they come down to these towns for usually a lot of healthcare and trade and that sort of thing. There isn't any way that we can levy a tax in Nebraska and send it up to South Dakota. On the other hand, the Sioux Nation owns 1,000 acres in Sheridan County and they're in the process of trying to build a nursing home there now. So whether something could come about with them building something in Nebraska, that would be something that future people would

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

Revenue Committee
February 03, 2010

have to look at and work on. I mean, we've been working at that for three years to get that nursing facility or...yeah, nursing home in Nebraska because of some of the problems that arise with Medicaid and that sort of thing and try to get the Indian Health Service to fund it. So it isn't an easy process but it can be done because we've been working on and I feel we're making progress all the time. [LB1002]

SENATOR HADLEY: Okay. I guess I had...I'm glad you clarified that because I guess my assumption and probably, obviously, an incorrect one was that the major problem was the people from South Dakota coming to Nebraska to buy the alcohol and then going back to South Dakota. You're saying that this would help the people within Nebraska who have these same problems. [LB1002]

SENATOR LOUDEN: Well, those that come down from Pine Ridge. You ought to remember the Chadron, Gordon, Rushville, are the primary trading areas for the people in the southern part of the Pine Ridge Reservation. That's the reason there's a Walmart in Chadron now, a town of, what, 6,000 or so with a super Walmart. And that's the reason there's an Alco in Gordon. The only Alco that didn't close in all of western Nebraska is the one that's still in Gordon and this is because of the trade people. And when you talk about, perhaps 35,000 or however many people on the reservation, that's a big population area for trade. And this is all goods, retail sales. So this is what...then when you look at, if you will look at the other map, the Pine Ridge Reservation, you'll see on the north side of it, then those roads then will go up towards Rapid City and the north side. The reservation is a pretty big area. I don't know now, one place I had where it was 3,400 square miles and one other place it said it was 7,000 square miles, so it's a big piece of country up there in South Dakota, and they go all directions to do the trade. Most of it would be Rapid City or else it would come south. [LB1002]

SENATOR HADLEY: Okay. Thank you, Senator Louden. [LB1002]

SENATOR CORNETT: Senator Utter. [LB1002]

SENATOR UTTER: Senator Louden, would you...are you familiar with any other time has the state taken a designated area and taken the tax and using the tax that normally comes to the state as a whole, and using it to help that designated...to sponsor a project in that designated area? Sounds a little like maybe the turnback tax in a sense that was used at the Qwest Center in Omaha... [LB1002]

SENATOR LOUDEN: Patterned after... [LB1002]

SENATOR UTTER: ...but for an entirely different reason, I think, is... [LB1002]

SENATOR LOUDEN: Yeah. Patterned exactly after it, because that's the reason I got Senator Ashford to help me draw the bill up is because they had experience with

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

Revenue Committee
February 03, 2010

working on that down there. And my understanding is, you're doing the same thing over here for this sports center here for...in Lincoln. I think they've been arguing now whether we're going to go 200 yards or 300 yards or 100 yards because the argument was how far they were going to be from Memorial Stadium whether the sales tax on Memorial Stadium went to the turnback or what. So this is...no I have to say, this isn't a new idea. It's just that I'm trying to make an application for some people out here in western Nebraska in an area that would probably do some good. And this is...what we're putting the tax on seems to be the issue that's causing the problem, so. [LB1002]

SENATOR UTTER: So is there a sunset? [LB1002]

SENATOR LOUDEN: No. [LB1002]

SENATOR UTTER: Should there be? [LB1002]

SENATOR LOUDEN: Well, if it works, no. [LB1002]

SENATOR UTTER: Well, but should the Legislature not revisit this in a year or two or three or four and see whether or not it's doing its job or not? [LB1002]

SENATOR LOUDEN: If the committee...yeah, if the committee felt like it was, yeah, there could be a sunset. I don't know if there's sunset on any of the other turnbacks or not. If there is, I have no problem with a sunset. Yes, in five years you would know whether it would work, but I would think you would want it to go at least five to seven years. Because if you're trying to build some kind of healthcare facilities, first of all, you're not going to get nothing built this year, and you're probably not going to get nothing built next year, so it's going to be as far as improving a healthcare facility, it would be a couple of years before you would get that all together. If it's just putting money into a detox center, now that could be done on a fairly rapid basis, so. But sunsets aren't...that isn't a deal breaker as far as I'm concerned, no. [LB1002]

SENATOR UTTER: It just seems like it would make sense to me to revisit this, kind of have a mandatory revisit, and see that, you know, should we...should something like this be successful, that it would be an appropriate thing to revisit it and see exactly what kind of a job, what's being accomplished with the state's dollars there. [LB1002]

SENATOR LOUDEN: Point well taken. [LB1002]

SENATOR CORNETT: Senator Louden, when I address these questions to you, understand I understand what a problem Whiteclay is. The majority of the Indian reservation is in South Dakota, am I correct? [LB1002]

SENATOR LOUDEN: Say that again. [LB1002]

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

Revenue Committee
February 03, 2010

SENATOR CORNETT: The majority of Pine Ridge is in South Dakota, am I correct? [LB1002]

SENATOR LOUDEN: Yeah, all of Pine Ridge is in South Dakota. [LB1002]

SENATOR CORNETT: Well, except they...okay. We're talking about taking state revenues from the state of Nebraska to address the problem of an independent nation that's residing in another state. [LB1002]

SENATOR LOUDEN: Well, I wouldn't exactly say that because when these people are living in these...because I've had this discussion before. When they're living in Gordon or Rushville or some of the towns, they're actually citizens of Nebraska if they're living there. Some of them are. Some of them pay taxes there. Some of them have their cars there and that sort of thing. So, I mean, they may be a member of the tribe but they can still be a citizen of Nebraska. [LB1002]

SENATOR CORNETT: But the majority of the problem we hear about is from the Pine Ridge Indian Reservation. What is South Dakota doing to address the problem? [LB1002]

SENATOR LOUDEN: Well, I haven't followed that very close but I know that since we started some discussion down there they have had some discussion with those people in South Dakota. And I think that probably has to be the next step in trying to get something going with South Dakota. They have their...I know what their healthcare...the reason the nursing home is being built down here on that 1,000 acres in Nebraska, or section, whatever it is, is because South Dakota thinks they have enough beds already for nursing homes, which they do. The problem is, their nursing homes are all at Pierre or way off and a lot of these elderly people, Native Americans off this reservation, have to go 200 or 300 miles to find a nursing home. And, of course, for me, older people ought to be closer to their families if they're going to finish out their years. So that's...I know that much on what South Dakota is doing. As far as their alcoholism, I don't know other than I know they have a detox center up towards Rapid City or someplace like that that they take some of the people off the reservation. [LB1002]

SENATOR CORNETT: Since this is an issue that crosses state lines, don't you feel that it ought to be a partnership between Nebraska and South Dakota to solve the problem, at least economically solve the problem? [LB1002]

SENATOR LOUDEN: Well, yes, if you can get something going that would be very fine but over the years, I mean, they tried to have cross deputization and that didn't get any place, you know, as far as a partnership. So what we're trying to do is alleviate the problem because Whiteclay seems to be...you don't hear them say Whiteclay, South

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

Revenue Committee
February 03, 2010

Dakota, they say, Whiteclay, Nebraska, whenever you have anybody advocating the problem with it. So this is the reason I went at it from this issue, not only because it's a district I represent, also because I've lived around that for, well, way over 70 years, that I've been around this and familiar with these people and been in that part of the country for a long time. So I know what some of the problems are. Somewhere we've got to have a start. This is probably the start. That's the reason I was looking for something to come in with somewhere's around \$200,000 fiscal note because it was no use putting a huge amount of money in it. We have to get something started on a smaller basis and I know we've been working for several years to try to get a detox center in Rushville and we've never been able to get the money or the wherewithal and it wouldn't cost that terribly much to start one because these towns are dying by the inches and there's a hospital sitting there in Rushville that isn't being used that could be used for something like this. It's already built, got the rooms in and everything, so. [LB1002]

SENATOR CORNETT: The difference that I see in the way this is structured on the turnback aspect is the turnback for the Qwest Center and the other turnbacks you see, are basically automatically sunsetted with the payment of the bond, am I correct? I mean, do you have a project that is like an anchor project? You already, I mean, is the hospital project going to be done for this? The money was allocated under the Qwest turnback for specifically the Qwest Center. Is there a project this money will go specifically to, or are we just sending money to an area for a project that may happen? [LB1002]

SENATOR LOUDEN: Well, first of all, you've got to have a fund before anybody can have an application and that's what it's all about is set up a fund and then these different entities can apply for an application to do whatever they are. No different than what they do with the... [LB1002]

SENATOR CORNETT: So it's different fundamentally than... [LB1002]

SENATOR LOUDEN: ...environmental trust over here. You know everybody has got to put in for a grant to get something and then they set up and decide who gets the money. That was the idea of something similar to that only on a smaller scale in a 30-mile radius. [LB1002]

SENATOR CORNETT: So, but fundamentally it's structured differently than like a turnback for an arena or the Med Center? [LB1002]

SENATOR LOUDEN: Well, yeah, where that was for bonding money and to pay for it. [LB1002]

SENATOR CORNETT: For bonding? [LB1002]

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

Revenue Committee
February 03, 2010

SENATOR LOUDEN: No, this...there's nothing been made yet, see, it's mostly to get a fund. I think we call it, what, liquor control fund or whatever that...there's a name set up in that bill to what you call the fund. I don't have the bill here with me, but there's...it's set up, what the fund is set up to be. [LB1002]

SENATOR ADAMS: Called a grant fund. [LB1002]

SENATOR CORNETT: Grant fund. Senator Louden...or I'm sorry, Hadley. [LB1002]

SENATOR HADLEY: Thank you, Senator Cornett. Senator Louden, I guess, maybe it's more of a technical question. Is the Liquor Control Commission the appropriate body to determine the use of these funds? Do you think they have the necessary skill set to make...I'm thinking of Health and Human Services or Department of Economic Development or, I guess, a question of who might be the best to determine who gets this money? [LB1002]

SENATOR LOUDEN: Well, no, I really...probably not. Because like I said, this bill was drawn up on the ninth day of introductions and that's the way we drew it up and that's what the form more or less dictated. But as I say, when I looked at the fiscal note and a few things that, no. We've already had conversations with the DED, had conversations with the Health and Human Services, and those places that do handle some of that. And, of course, all of them are short staffed so they'll be a administrative fiscal note no matter where you go because everybody...I've never seen an agency yet that you didn't direct a fund to that didn't decide they had to hire some people in order to make it work. And nobody's overstaffed, even if we do turn them back 15 days out of the year. [LB1002]

SENATOR HADLEY: Senator Louden, I think that's a given. If you bring something in, some agency is going to want a staff person to handle it. [LB1002]

SENATOR CORNETT: Seeing no further questions from the committee, Senator Louden, I assume you're going to close, correct? [LB1002]

SENATOR LOUDEN: Yeah. [LB1002]

SENATOR CORNETT: May I see a show of hands for the proponents of the bill? And the opponents. I'm going to limit testimony to three minutes per testifier. When the light goes from green to yellow, you have one minute left. With that, we'll take the first proponent. If everyone that's going to speak in favor wishes to move forward so we can move through the hearing process, and opponents also. [LB1002]

GARY PERSON: Senator Cornett, esteemed members of the Revenue Committee, my name is Gary Person. Professionally, I'm the city manager and economic development

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

Revenue Committee
February 03, 2010

director for Sidney, Nebraska. I just speak here today on behalf of myself and to our good friend to the north, Senator Louden, who I applaud for being very proactive on this issue. Having worked with economic development in the state of Nebraska for over 25 years, one of the great tragedies, I think, that you could witness is to just spend a little bit of time up in the area that Senator Louden so eloquently described and I think it behooves us as a state to be very proactive on this issue to do anything we can to spur the kind of help that needs to happen. Nebraska is definitely impacted, much of the negative publicity that comes forward comes with a Nebraska dateline on it, and I'd just like to lend my support as a neighboring community. In fact, my daughter may get up here and testify later. She spent a couple of summers up there with a church group doing some community service projects and it's something you become very passionate about when you see what has occurred there over the years. And I just would encourage the Revenue Committee to do anything it can to set up this fund. I really do think it would have a positive impact in the future. Thank you. [LB1002]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. Next proponent. [LB1002]

THERESA TWO BULLS: Good afternoon, Madam Chair, committee. My name is Theresa Two Bulls, T-h-e-r-e-s-a T-w-o B-u-l-l-s. I am the president of the Oglala Sioux Tribe located on the Pine Ridge Indian Reservation, Pine Ridge, South Dakota. I sit here before you as a proponent for LB1002. As Senator Louden stated, we are really thankful to Senator Louden and the Judiciary Committee for allowing us to provide testimony regarding Whiteclay. And I could have this room filled with my tribal members who feel that this is really an important issue to us because a lot of our tribal membership is dying from alcohol abuse, and my concern is the children in the future generations. And going before this committee and asking that we develop a partnership with not only the state of Nebraska but the state of South Dakota and the Oglala Sioux Tribe that we have to do our part also. And I really am happy that this bill is being introduced. I ask that you really take this into consideration. This has been an ongoing problem. I was told I was the sixth tribal president to provide testimony to the state of Nebraska regarding Whiteclay and I hope to be the last. I want to be the last president to provide testimony because we have a very serious issue on Pine Ridge and Whiteclay is part of the problem and we want to work with the state of Nebraska. We want to work with the residents of Whiteclay and to solve this problem to come up with a good idea as a solution. And one of the solutions, if this bill passes, is a detox center. We want to be able to build a detox center so we can get help for our tribal members so we could turn their lives around so we could say in our heart that we helped and we want a better life for my tribal members. You were asking about other agencies to be involved. As tribal president I am going to work hard to provide information to the federal government who has a trust responsibility to the Oglala Sioux Tribe through treaty that they would help us in not only health and education but welfare, general welfare of our people. And this is general welfare and health of our people. We would look at every

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

Revenue Committee
February 03, 2010

entity we can, agency to partner with us to make this bill a reality to our tribal membership, because we are really sincere and we want to see a difference and with your help that difference can be made. We can all work together and help my people to turn their lives around. All the funding issues, all the questions you're asking are legitimate questions, because I served on the state legislature also for South Dakota and I know about this process. And the process can be...we can all come together and make it a good one so that we can get this bill passed. We can find the extra funding, we can find the staffing. The Bureau of Indian Affairs and Indian House Services also committed to helping us to do what this bill stating that we will build a detox center. Thank you. [LB1002]

SENATOR CORNETT: Ma'am, as...you said you were a former legislator? [LB1002]

THERESA TWO BULLS: Yes, I am. [LB1002]

SENATOR CORNETT: And you are the tribal president? [LB1002]

THERESA TWO BULLS: Yes, I am. [LB1002]

SENATOR CORNETT: What are...what is going on, what type of interaction are you currently having with the state of South Dakota involving this problem, or regarding this problem? [LB1002]

THERESA TWO BULLS: At the moment and in the past, none. Being a state Senator for four years it was really hard for me to be up there and to try to get Indian issues presented and to have them killed in committee. It was really hard for me, but that didn't stop me to keep coming forward with Indian issues. On the nursing home, as Senator Loudon informed you, a moratorium was put, and the bottom line is the dollars. The state of South Dakota does not want to lose the funding, the Medicaid and Medicare dollars, and I think that's really unfair. They need to give the tribes a chance to become self-sustainable and to help themselves. So I can honestly say that there really wasn't any really good relationship, but we're working on a change. And as Senator Loudon stated that we were informed that the other senator did contact one of the senators in South Dakota and so that's good. There's communication going on which was never there before. And I think that's a start and that's the only way we can make the changes if we all come together and sit down and talk around the table and discuss the issue and how we're going to help each other. [LB1002]

SENATOR CORNETT: Questions from the committee? Senator Utter. [LB1002]

SENATOR UTTER: Thank you, Senator Cornett, Madam Chairman. The Bureau of Indian Affairs, the federal government, do they provide any funding for the type of problems that we're discussing here at all? Do they provide any funding to the tribe for

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

Revenue Committee
February 03, 2010

these type of problems? [LB1002]

THERESA TWO BULLS: Yes, we do get funding from the federal government. A lot of our dollars are from the federal government, but it's not 100 percent. In our health, in our health the funding we only receive is 38 percent. I don't think we have ever received 100 percent. In our education it's 40 percent. And so you see, the funding isn't really enough for us to address all of this. And I'm thankful that the federal government does fund us our tribal programs and gives us federal dollars, but it's not enough. And that's why we go back every year and we lobby and we have to take statistics and we testify on why more funding is needed, not only in health, but also we have a big problem with law enforcement, lack of officers, lack of equipment, lack of dollars. So we do have our problems but we make do with what we get and we hope to get more. But we do work closely...this administration we have worked closely with the federal government and we've opened their eyes and we've opened their ears and to finally see that all our reservations how we operate on our reservations and how their dollars aren't really helping us. So, yes, we do get funding but it's never enough. [LB1002]

SENATOR UTTER: Thank you. [LB1002]

SENATOR CORNETT: Senator Pirsch. [LB1002]

SENATOR PIRSCH: Well, I'll just ask, are you familiar with the language in this or should I reserve specific questions to those who testify after you? [LB1002]

THERESA TWO BULLS: You could reserve. They're all anxious to speak. That's why we came here today. We made a point to be here. [LB1002]

SENATOR PIRSCH: Thank you. Okay. Well, I'll hold those questions until later. I do appreciate...I will ask you one question just because of your unique knowledge and you're representing the reservation. How far north of the border, of the Nebraska-South Dakota line, does the reservation extend northward and then into South Dakota and then east and west? [LB1002]

THERESA TWO BULLS: We're two miles north from Whiteclay. [LB1002]

SENATOR PIRSCH: That's where Pine Ridge is, correct? [LB1002]

THERESA TWO BULLS: Yes, Pine Ridge village. [LB1002]

SENATOR PIRSCH: But is that the only extent of the reservation is just strictly in Pine Ridge or does it...the reason I ask is...okay. So the way it's...I'll withdraw that question then and ask... [LB1002]

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

Revenue Committee
February 03, 2010

THERESA TWO BULLS: The main issue is Pine Ridge and Whiteclay, which is 2 miles south. [LB1002]

SENATOR PIRSCH: Thank you. [LB1002]

SENATOR CORNETT: Senator Hadley. [LB1002]

SENATOR HADLEY: Senator Cornett, Madam Chairman. I guess the concern I have is I'm worried that this is a band-aid, that we're not getting at the problem because we're not getting at the proximity of Whiteclay to Pine Ridge. It's not stemming the problem that is caused by that proximity and I guess that concerns me that if we spend some of the money in Chadron or Hay Springs or Rushville, how will that help solve your problem on the Pine Ridge Reservation? [LB1002]

THERESA TWO BULLS: I don't look at it as a band-aid. I look at this as a beginning, a beginning to develop a partnership with the state of Nebraska, the state of South Dakota, and the Oglala Sioux Tribe. Because not only is alcohol killing our members, also accidents due to alcohol going from Pine Ridge to Whiteclay. And you need to keep in mind and remember that our tribal members, like Senator Loudon stated, we travel to these border towns, Gordon, Rushville, Chadron, and that's where our dollars are going. We would love to have our dollars stay on the reservation because...but due to lack of infrastructure, it's hard to get economic development started on the reservation. So I feel that we fund not only Whiteclay but we also fund these border towns with our hard-earned money that is spent in those towns because we don't have economic development on our reservation. [LB1002]

SENATOR HADLEY: Thank you. [LB1002]

SENATOR CORNETT: Other questions from the committee? [LB1002]

SENATOR PIRSCH: If I can just ask one. You said that the problem is largely confined just to Pine Ridge in terms of the large high numbers of alcoholism and what not. Is Pine Ridge really the only problem area that you have in the reservation or is it a...because I note the reservation is quite a large area as I've just reviewed a map that goes 30 miles or more in other directions. I mean, are there other areas that also suffer from that? [LB1002]

THERESA TWO BULLS: It is...I would say basically that it is Pine Ridge, because Pine Ridge we only have one store called Sioux Nation Shopping Center and that's where a majority of our tribal members cash their checks. And then they go over into Nebraska and they purchase alcohol. Some of our members do go to Gordon, they do go to Rushville, but it's primarily Pine Ridge and Whiteclay. [LB1002]

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

Revenue Committee
February 03, 2010

SENATOR PIRSCH: Okay. Thank you. I appreciate it. [LB1002]

SENATOR CORNETT: Senator Louden. [LB1002]

SENATOR LOUDEN: Yes, thank you, Senator. Well, thank you for being here, President Two Bulls. I need to...I think I will clarify this for Senator Pirsch. Pine Ridge is a town but also the Indian reservation is called Pine Ridge Indian Reservation so actually there is problems with the whole areas. If you will look on this map that was handed out to you, and up there you'll notice where there is Kyle, if you would look and I didn't bring those, didn't put those out, but Kyle is another area where they have more or less a center for police forces. And there were probably last year for the arrest for bootlegging, there was 28 arrests up in that side of the reservation, on the north side. So, I mean, it isn't just Whiteclay and Pine Ridge that's the problem for Pine Ridge. It's all over the reservation. So I don't know if you're familiar with it or not but it's the maps I handed out, show you that Whiteclay is here, and then this huge reservation. My understanding is it's about the second largest Indian reservation in the United States, is the one up here. [LB1002]

THERESA TWO BULLS: Yes. [LB1002]

SENATOR LOUDEN: Only down in Arizona, and is Standing Rock or any of them up there any...? [LB1002]

THERESA TWO BULLS: No, we're the largest. [LB1002]

SENATOR LOUDEN: You're the largest, so. [LB1002]

THERESA TWO BULLS: The Navajo Nation and Oglala Sioux Tribe. [LB1002]

SENATOR LOUDEN: Yes. And this is...it's a huge territory up there and as she's stated, she's working with the BIA and I could point out that some of the problems they have is, their police force, my understanding has been, been cut from 100 officers down to 40 officers... [LB1002]

THERESA TWO BULLS: Yes. [LB1002]

SENATOR LOUDEN: ...here in the last few years and with nearly 50,000 people in, what, 4,000 square miles or whatever to look after, why it is a problem up there. So this is something that we're hoping we can alleviate that and that's the reason in the bill there was put in there for law enforcement. Because several years ago, and there's nobody around here old enough to know now when we had a state sheriff in Whiteclay. Jim Talbot was in there. He was in there for several years and that was part of the deal. And somewhere along the line that disappeared or went out. So that was the reason

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

Revenue Committee
February 03, 2010

that's been put in the bill also. Thank you. [LB1002]

THERESA TWO BULLS: Madam Chair and the committee, I do want to inform you that we did meet with the Governor last Friday and some of your senators and we did talk about the cross-deputization and where it fell through the cracks and we are going to revisit that because our tribal police still do patrol Whiteclay. And, you know, so we are looking, like I said, a partnership. We need to work together and we, as well as the tribe, we want to do our part. [LB1002]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you very much. [LB1002]

THERESA TWO BULLS: Thank you. [LB1002]

SENATOR CORNETT: Next proponent. [LB1002]

SONIA WESTON: Good afternoon, Senators. My name is Sonia Weston, that's spelled S-o-n-i-a W-e-s-t-o-n. I'm a tribal council representative with the Oglala Sioux Tribe. And I want to thank today, Senator Louden for introducing bill LB1002 to your legislation. And as I sat in the back, I listened to some of the questions that were asked. And I do want to clarify to the legislators that Pine Ridge is a large reservation. I represent one of those districts on the reservation. We do have nine districts and I represent one of those districts. So when we talk about the Pine Ridge Reservation and Whiteclay, I represent one of those districts on the reservation that might have some of my district members that go to the Whiteclay and sit over there and drink alcohol. So when you look at the bigger picture, it's not only Pine Ridge, which is just two miles north of Whiteclay, but we have a large reservation which consists of nine districts. So I wanted to clarify that to the legislators and I think Senator Pirsch, I wanted to clarify that to you. I do want to say that I did meet with some of your legislators and your Governor in Gordon last Friday. And I want to say I'm also the HHS chair of my committee and I also sit on the Judiciary Committee as well as the EDA Committee. So, I guess, with this bill I'm very...I guess I'm glad that Senator Louden is proposing this bill in three parts, economic development, law enforcement, and health...the health part of it. I want to say that those three areas are very needed. And I think part of the Nebraska issue and Pine Ridge issue is all those three. I do see, and I did say to your legislators last Friday, that as a young girl I went to Whiteclay. I shopped there with my mother and my father and I seen how nice those stores and businesses were and it was good to go there and shop because my grandfather had friends there. He would shop. We would eat there at a cafe that I mentioned. And I remember that, and it was called Josie's Cafe. And those were good memories that I had as a young girl and I would go home. But today as an adult, today I see Whiteclay and I don't see Whiteclay that way that I seen it so many years ago as a young girl. So today I'm hoping that with this bill that we can only look at not only the alcohol issue but the economic development issue within Whiteclay. That

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

Revenue Committee
February 03, 2010

you can be able to bring a lot of those businesses up to what they should be for the people of Nebraska but also the people that go to those businesses and shop every day. We talk about our own people and I think today I want to say that we, as tribal members, need to take responsibility of our own members. But I think that it's a choice that they make to go to Whiteclay or go to Nebraska to live. Not only Whiteclay, but we have Chadron, we have Hay Springs, we have Rushville and Gordon, the border towns that our people live at today. And so today, I want to say thank you to Senator Loudon for presenting this bill to your legislation and I hope that you can support this bill because I believe that some good will come out of it. I believe that we can work, like President Two Bulls mentioned, that we can work together as a partnership and to help not only our people but to work with Nebraska. And so today, I want to say thank you for hearing me, but I also want to end by saying that I want to thank you as legislators, senators, for giving us this opportunity to come forward to you today and present what we feel as tribal members and what we see today. So I want to say that we do support that. We do have an alcohol problem on the Pine Ridge Indian Reservation. But I think that we try to do the best that we can to help our people and sometimes we don't always have the resources or the funding to do that. But with this bill I think that we can work together to build something to help our tribal members. So today I want to say that. Thank you. [LB1002]

SENATOR CORNETT: Thank you. Senator Hadley. [LB1002]

SENATOR HADLEY: Senator Cornett. Thank you for coming out, I appreciate it. I have to say one of the things that in the back of my mind, I guess I'm surprised that there isn't more of a concerted plan that includes the state of South Dakota, the Bureau of Indian Affairs, and Nebraska. You know, this seems to be just one part and I think Nebraska has an obligation to help, but I hope that we're not doing this on our own. To me, it would be much more of a joint effort if I saw a plan from the BIA and from the state of South Dakota that says, this is the problem and here's how each of us...each of those three entities are going to go about trying to solve the problem. [LB1002]

SONIA WESTON: Thank you, Senator Hadley. Just yesterday before I left to come here today, I met with my HHS Committee and we talked about this bill that is going to be presented today. And I think one of the questions I asked my committee was, what is our solution to this problem? What are we going to do as tribal members, tribal leaders to help? And some of the things that I got back from some of the committee was a detox center. And I think that...I see that in the state of Nebraska that this is your bill. This is your bill and I think we have to respect that. But I also believe that on the other side, which is South Dakota, we do have the Bureau of Indian Affairs, we do have the Indian Health Service, and I think that those two entities will be very, I guess, happy or pleased to work with us like President Two Bulls mentioned earlier, that we will work together. And I think when the plan is presented, like Senator Loudon said, the criteria that is set in this bill and how we will be able to apply for this grant or application, that I think at

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

Revenue Committee
February 03, 2010

that time, I think that we will have a good plan because we've always discussed this issue, this issue has always been on the table with Nebraska and South Dakota. So I do know that, you know, we are on our part looking at that and trying to work with you, I guess, as a partnership. So I do understand where you're coming on the responsibility, what are we going to do? Well, I believe that's what we will try to work in bringing Indian Health Service and the Bureau of Indian Affairs to work with us. [LB1002]

SENATOR HADLEY: Thank you. Thank you. [LB1002]

SENATOR CORNETT: To follow up a little bit to Senator Hadley's question, when you say that you would like to help with this if it was a grant, are you talking matching dollars? How do you wish to help? [LB1002]

SONIA WESTON: You know, I think that right now I will honestly say today that our tribe is very limited in funds and a lot of our funding comes from the federal government from the Indian Health Service. So all we do have as resources are general fund and today I can honestly say that we do not have the money to be able to do a matching grant. I think a lot of times that hurts a lot of our grants that we do apply for because they are matching. I think that today, you know, the way the bill is set about us, by any entity applying for it, I think that is going to help us as a tribe to be able to give you a good plan or a good grant on that application to say, this is what we would want to do with, you know, proposing something to Nebraska. But right now today, I can honestly say that our funds are very limited and our resources and so I don't know only that we could work together as a partnership to try to address this alcohol problem that we have. [LB1002]

SENATOR CORNETT: Senator Pirsch. [LB1002]

SENATOR PIRSCH: Yes, and thank you very much for your comments here today. I was just trying to get a gauge of expectations or...well, if passed, this legislation or you're here today supporting this legislation, what types of expenditures or projects would you foresee in your mind would flow from, if this bill passed, the influx of money? [LB1002]

SONIA WESTON: I think what we would first would like to see I think is a detox center. I think Senator Loudon talked about the nursing home and I think that our tribe has been working very hard with Nebraska in trying to get the nursing home built, just between Nebraska and South Dakota. And we do have trust land that we do have set aside and so I think that we can do a lot with this bill if it is passed. [LB1002]

SENATOR PIRSCH: But it would under the language that's used in this bill, the applicant for this assistance would have to be a political subdivision, right? And so who would be the...I mean is that...you said you represent an area of the...I'm sorry, the

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

Revenue Committee
February 03, 2010

reservation. Who do you perceive being that political subdivision? Because under the terms of this, they would have to apply. [LB1002]

SONIA WESTON: It would be the Oglala Sioux Tribe. [LB1002]

SENATOR PIRSCH: Okay. [LB1002]

SONIA WESTON: We represent the Oglala Sioux Tribe. Although we do represent a certain district within the Oglala Sioux Tribe, it's always the Oglala Sioux Tribe that we will be representing. [LB1002]

SENATOR PIRSCH: Thank you for that. I appreciate it. [LB1002]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you very much. [LB1002]

SONIA WESTON: Thank you. Thank you. [LB1002]

SENATOR CORNETT: Next proponent. [LB1002]

KIM CLAUSEN: Good afternoon, Senators, and thank you for inviting us up to Nebraska. My name is Kim Clausen, K-i-m C-l-a-u-s-e-n. I am a tribal council representative from the La Creek District. My community is Martin which is about ten miles from the Nebraska border. My entity down there would be Merriman, Nebraska. That's what I'm closest to. Of course, our reservation is very long. First of all, I wanted to start this off with by saying that the Oglala Sioux Tribe was created way before Nebraska and South Dakota were. We had existed prior to you guys. You guys came in after the reservation was established. During the period of time under our treaties when they established our reservation, they said, there shall be a buffer that goes around this whole reservation so no bad men can come in. You guys are sitting in the buffer. Whiteclay is the buffer that should have been left as a buffer to Pine Ridge. We call those people down there the "street angels", because they're sick. They are alcoholics. Sometimes we get so afraid that we're going to get a call the next morning and two or three of them froze to death. You realize how many murders have come out of that little community? Tribal members. They used to laugh when they called the road between Whiteclay and Pine Ridge the Emerald Highway. The reason they called it the Emerald Highway was because of broken wine bottles. When those guys come back across that border, we have to deal with them. It's our responsibility to either incarcerate them, if they need to be, take them to the hospital, if they need to be, take them to our treatment facility if the need be. We care about these people. We don't want them to be harmed down there. But we do realize they're sick. Alcoholism is a disease. And we Native Americans seem to be more susceptible to it than the average. So when they come home and they go to their families and they abuse their children and they abuse their

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

Revenue Committee
February 03, 2010

wives, we have to deal with it. That's us, that's the Oglalas. It doesn't stay down in Nebraska. They come home. They come home usually extremely inebriated, if they even come home at all. Some of them will stay down there for three or four or five days. So I did want to mention that. I wanted to clarify that was being said on, what are we doing with the state of South Dakota, the BIA, the IHS, and Oglala Sioux Tribe? We do get federal dollars because of the federal trust responsibility that the federal government has to the tribes. They entered into treaties which are the supreme law of the land. I have always said that treaties to the tribal government are only as good as those people that enforce them. If you guys don't want to enforce our treaties, there's nothing we could do to make you do it. We just hope that your integrity holds up and says, these are the supreme law of the land. We must follow these. So we entered into a really good treaty. I didn't even see the yellow light come on so I'm going to finish this up with adding that for the last two years, we have earmarked a detox center through our congressional delegation. We have sent it...a detox on the Pine Ridge Indian Reservation is going to cost us about \$1.4 million. That's a medical detox. That is not...it's to get them in there, get them through the DTs, etcetera. So it's a medical detox. We will take them from that detox into our treatment. So the detox is set to get them to a point where we can help them, to get them medically, physically, and able to...where we can step in and get them some real treatment. So we have, we have put in for treatment centers. Unfortunately, our detox was in our funding and the way that the IHS broke out our funding was very difficult because they did 70 percent had to go to old facilities and our old facility sits on the hill there. It's an old hospital and they weren't going to put any money into that. So we, in...and we're going to do it this year. We're getting to do our earmarks in the next week. They're due February 15. We will earmark a detox again. We will do that, you know, but again the state of South Dakota, well, we don't have enough. You guys don't have enough. Well, what the President said is, we are very flexible people. We are used to working with a lot of agencies. You name it, we've worked with them. Probably more so than anybody else. So we're very flexible. We can go from one entity to another and we're used to that. And we can give you a plan on detox. We can show you what we've got in place. And I just want to kind of thank you for this time that...especially, Senator Loudon. You know, he lives down there. We have a lot of our members that live in Rushville because we have no housing in Pine Ridge, so they go down there. Our paychecks are spent down there. We rent houses down there. It's the land of Crazy Horse, remember? You guys use that, the land of Crazy Horse. Chadron, Nebraska, Crazy Horse is our leader. So you guys are calling that the land of Crazy Horse and yet when we come here, it's like, well, this, this and this. One last comment before I get done because I know the red light is on. I do not want to have to compete for dollars against anybody else. We have to do that all the time. It's like throwing a bone at a bunch of dogs and letting us fight over it. There's a lot of subdivisions that would more than likely come in here and want to save the tribe. It happens to us all the time. We have to save ourselves. We have to make our own destiny. You guys can't do it no more for us. It has been done for 150 years. So now, we have to do it. And we are at the point where we're educated enough, we're competent enough to

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

Revenue Committee
February 03, 2010

do it. So with that, I would like to say thank you. [LB1002]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. Next proponent. Are there any further proponents? [LB1002]

MARK VASINA: Thank you, Chairman Cornett and members of the committee. My name is Mark Vasina, M-a-r-k V-a-s-i-n-a. I represent Nebraskans for Peace, but I'm here today to read a brief statement from Frank LaMere from South Sioux City who could not be here. Honorable members of the Revenue Committee, I'm writing you on the occasion of the hearing on LB1002 and I would be remiss if I would not apologize for not being able to be there and to thank you for elevating the discussion of the on-going strategy in Whiteclay. Your role in the public trust is an important one and I dare say that it has never been as critical as it is right now. The issue has not gone away, good Senators, and as long as there is one Nebraskan, red, black, brown, or white, who exemplifies the strength of resolve, it never will. I can personally and respectfully attest to that. Several days ago an article in the Lincoln Journal Star spoke to the efforts of one of your esteemed colleagues who traveled north to confer with the Speaker of the South Dakota House. The Speaker, like many in our own state, chose to beg the question, to wring his hands, and to retreat to the tired old mantra, that if you shut down Whiteclay, then the problem will just move down the road. Tell me there's more. Is the coded response telling those in control to ignore Indian concerns all the Speaker can offer? The worn out adage is beginning to wring hollow even to the most outspoken defenders of the status quo. And when we have to cross borders to find someone to give us this sort of advice and what is clearly a Nebraska issue, then we must be running for political cover. I did not vote for the Speaker of the South Dakota House and neither did any of you. In that same article, a well-meaning pastor at Whiteclay said that we must stop the marches and protests and join him in a community cleanup. I may do that as many of you would. But still I would be wondering why the beer sellers take no responsibility for their actions and whether or not our work would result in something good for the people or if we would simply be providing those who frequent Whiteclay streets and alleys with a sanitary place to drink, fight, and freeze to death. We continue to look for answers because our search keeps us from seeing the truth. Our thinking must change. Now is not a time for compromise, for process, or further study, but a time to take decisive action and to end liquor sales in Whiteclay. We're better than that. I would hope you agree. Sincerely, Frank LaMere, 600 Pioneer Place, South Sioux City. I simply want to add that Frank and myself and most of us that I've spoken to in Nebraskans for Peace applaud the efforts of Senator Loudon and this committee to bring this kind of effort forward. But it's important not to lose sight of the need for either a lot, a lot of money, or the fact that we aren't really addressing all the issues that are before us that have been brought before the Governor, before the Legislature, before this state for many years. I'm happy to stop before the red light goes on. Any questions? [LB1002]

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

Revenue Committee
February 03, 2010

SENATOR CORNETT: Seeing none, thank you. [LB1002]

MARK VASINA: Thank you. [LB1002]

SENATOR CORNETT: Are there any further proponents? [LB1002]

JUDI GAIASHKIBOS: Thank you very much. I'm Judi gaiashkibos, the executive director of the Nebraska Commission on Indian Affairs, and I don't need to spell my name do I? I do. Okay. J-u-d-i gaiashkibos, g-a-i-a-s-h-k-i-b-o-s. That's an Ojibway word and the little g is a sign of humility and the Ojibway people believe that they are the first people, the Anishinabe. I'm an enrolled member of the Ponca Tribe of Nebraska and I'm Santee Sioux as well. And as you all know or may not know, we in the Oglala Sioux have a unique standing in America as the first peoples, and that we have dual citizenship. And the Indian people that live in Whiteclay that are Oglala are citizens of the state while they are in Whiteclay and then when they cross the line to South Dakota, they're a citizen of the state of South Dakota as well as their Oglala Sioux Nation. So any Indian people that reside in Nebraska in Gordon, Chadron, Rushville, the state of Nebraska, the Legislature, the Department of Education is compelled to educate the Indian children and as they do all other children in the state of Nebraska. Indian children in Nebraska go to public schools, not bureau schools. And so I just want to say that to you because this is really a complex issue. I have been the executive director for the Indian Commission, this is my 15th year. And I believe I've worked with four of the tribal leaders, a couple who have been reelected, so I know that this is a longstanding saga and a tragedy, a travesty, whatever you want to call it. And I think that today is the day for Nebraska to be a part of the solution and not to point fingers and not to put the blame on South Dakota, what they're doing or not doing. The truth of the matter is, Whiteclay is in Nebraska. It's not in South Dakota. So we can't force or make South Dakota do anything, but we have to take responsibility here. Therefore, I commend Senator Loudon as President Two Bulls and others have. The light, oh, this is fast. Okay. So this isn't maybe the best solution and it's not a solution, it's a process. There's going to be another bill next week by Senator Karpisek. On that bill we have a working group that all the people here maybe should be a part of as well. We have invited the Indian Health Service, the director there, is coming down, Charlene Red Thunder. We are realizing that we need to partner and collaborate and grow these dollars so the money is generated here. I, too, do not want to see them siphoned off by people that think they can save the Indians and different nonprofits or whatever. How, though, is Nebraska...or will you, the Legislature give all this money to a tribe in South Dakota? I don't know. That seems problematic. But I do think we need to look at Indian Health Service, the Bureau of Indian Affairs. We need to look at the private sector. We need to look at the National Health Institute, other grant entities to grow the monies from this bill and the bill for next week. And that's what I am a part of, building that dialogue and I think that it's important that we see this as a beginning. We've got to do something. It's time to do something. We've sat around and talked about this for many, many years and

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

Revenue Committee
February 03, 2010

looked the other way and done nothing. And, you know, it's...three minutes just doesn't do justice to what I could say. I think this is really sad and I really hope that this committee will seriously consider moving this out of committee to the floor and that we'll do something. Let's do something, the right thing. You know what that is. We've got to make Whiteclay be a place of hope and not what it is. It's a disgrace. It's a stain on Nebraska's history. And you all as policymakers can do something about that, or you can just say, well, this is South Dakota's problem. Those poor Indians, they're going to drink and get their alcohol somewhere. But let's take these tax revenue, this off the alcohol sales and put it to good use. Now, as far as who could administer it? I know you said that there are problems with the Liquor Commission. We, the Indian Commission, we're a state agency. I've been the director for 15 years and I think I know a lot about strategic planning and management and we would be happy to work with the State Tribal Committee, with DHS, and the Legislature, and be a part of administering that money. We have an operating budget of less than \$20,000, a staff of three, and boy, we could use some support to do all the work that we do for all of our tribes in Nebraska. And the other tribes are invited to this meeting next week as well and they want to be involved. They want to work with the Aberdeen Tribal Chairman's Association, which does administer federal dollars. So you see there are a lot of other players out there that...Winnebago have a hospital. They could, perhaps, provide some of the cultural treatment that maybe wouldn't be at NEPSAC where you have a white administer, you know, having the beds for treatment. So I would urge the committee to move this out and to look to the Indian Commission as you develop your plan of implementation. And next week when we gather, I would invite President Two Bulls and all the people here today to become a part of that working group. Because I really think it's going to take someone that has strategic planning skills, that has the understanding of Indian culture and of the whole...it's a very, very complex matter and it's based somewhat on poverty, exploitation, the history, but we've got to work together and someone has to have that kind of vision. And if you just hire someone that really has no knowledge of Indian culture, of past history, I don't think we're going to be successful. So I, too, would like to thank you for giving me this opportunity and it's an honor for me to serve the Indian people in this state and to work with Oglala Sioux Nation and all of you. Wi' Bthu Ho. And I'd be happy to answer any questions. [LB1002]

SENATOR CORNETT: Senator Hadley. [LB1002]

SENATOR HADLEY: Senator Cornett. Thank you for coming, I appreciate it. You mention there are other...what other reservations are there in Nebraska? [LB1002]

JUDI GAIASHKIBOS: In Nebraska we have three land-based tribes, the Winnebago, the Omaha, and the Santee Sioux. The Ponca Tribe was a federally recognized tribe that was located up in Senator Dierks's area. At Niobrara, they were terminated in '62 and now were restored in '90 without a land base, so three reservations. [LB1002]

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

Revenue Committee
February 03, 2010

SENATOR HADLEY: Then my follow-up question. In a nutshell, what makes Whiteclay and the Oglala Sioux seem to be, are they...is their problem different than the other three reservations that we have in Nebraska? I guess, why are we, you know, why are we singling out Whiteclay and Oglala Sioux? Are there problems in the Winnebago, Omaha, and such as that? [LB1002]

JUDI GAIASHKIBOS: Well, sir, Senator, we really aren't singling them out. It's a matter of policy that's brought us to here that the Liquor Commission granted four liquor licenses in this little community, unincorporated village, that's a no-brainer. Why would you give four liquor licenses? Well, why, because you have a population across the border that's a dry reservation that comes over here, so you have a captive market. And Nebraska has profited off of those dollars for many, many years. That's the uniqueness. We don't have four liquor stores on the Macy, Omaha Reservation or at Santee or at Winnebago. The tribes didn't do this. This was done to them. So I hope I answered your question. [LB1002]

SENATOR HADLEY: Yeah, I guess, just a follow-up. I came down...I used to drive Highway 77 a lot coming down through Winnebago and such as that. So there isn't a town close to Winnebago that has the same kind of liquor attributes where tribal members would go to get their liquor then or their alcohol? [LB1002]

JUDI GAIASHKIBOS: Well, Winnebago, if you've driven through it recently, you'll notice they have a roundabout and they're doing wonderful things at Winnebago because they have economic development and capacity infrastructure. They're one of the few rural communities in the state of Nebraska that are prospering and that's from class regaining that they were able to take in Iowa, mind you. As you know, we don't have Class 3 in Nebraska. They took those dollars, they grew. That community has changed dramatically. And most of you know, having lived in Nebraska, Winnebago is a pillar exemplary. They've received the Harvard award for economic development. They have been able to do that. At Pine Ridge there's extreme poverty, location, location, location. In the real estate business, you know you've got to be located. Highway 77 goes right through there. So you have that access to infrastructure, the capacity with the semis being able to go, the airport in Sioux City. Macy is much more isolated. They don't have Highway 77. They haven't done as well. So, yes, people at Winnebago can go down the road and buy alcohol. They can go to Walthill and other places, but there aren't...it's not like off in an isolated little slum like you have at Whiteclay. I mean, that is just a pathetic place. None of us would want to live there. Only, perhaps, if we were making millions of dollars like the retail people are. It's not a high quality of life, Senator. [LB1002]

SENATOR HADLEY: Okay. Thank you. [LB1002]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB1002]

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

Revenue Committee
February 03, 2010

JUDI GAIASHKIBOS: Thank you. [LB1002]

SENATOR CORNETT: Are there any further proponents? Are there any opponents? I'd like the opponents all to move...are you a proponent? Okay, I'd like opponents to please move forward. [LB1002]

JOHN KREJCI: My name is John Krejci, K-r-e-j-c-i. I'm retired professor from both Kearney State College and Nebraska Wesleyan, sociology social work. I've lived on the reservation, the Winnebago, Omaha Reservation. I've been to Pine Ridge several times for extended...I've taken students to reservations for about ten years. So I...and I come with fear and trepidation opposing this bill because I'm a very pro Indian person. But...and I'm glad the Governor and the Legislature, they're...you're finally doing something. Nebraskans for Peace has been working on this since 1999 so at least there's some (inaudible), there's some people in South Dakota that's getting involved, the Governor, Jon Bruning, so that's the good thing. However, the problem is, alcoholism, the problem is that we're selling millions of cans of beer to promote alcoholism. And that seems to be Nebraska's, you know, the skid row of the plains is because we're making a lot of money. We're taking...here we're taking tax dollars and say, well, let's do something, throw some crumbs toward the Native American people. I say that with...it's kind of like blood money. Let's make money on beer sale and give it to some nonprofit, clean up the town and have a recycling center. It just seems wrong headed. I agree, you know, the thrust of the idea is, you know, let's do something to better the problem but it's kind of like assuaging white guilt rather than solving the problem. So I don't want to be cynical and as I say, I laud the people that are getting involved but this just doesn't seem to be the best solution. I've written two letters to the editor and so I'm kind of a community activist who speaks his mind, and at my age I don't care, you know, if people don't like me or if they...they can't fire me because I'm retired. But, you know, things need to be said because we know what the problems are and...I mean, there's sex exploitation, there's violence, there's bootlegging, and that needs to be addressed by federal authorities and the tribal leaders. I mean, you know, that beer comes in there, that alcohol comes in there so all of the attention to this bill is laudable. The result, and it's like throwing some crumbs as Judi said to me, we need to...it kind of distracts us from what the real problem is. We really need to face our Nebraska liquor sales, beer sales, and the whole problem, alcoholism. And certainly we need the detox and treatment. I think that comes up in another bill but that's a huge, huge expense. That's like putting the hospital at the bottom of the cliff rather than putting a fence at the top of it. So that's where I'm at and as I say, may not be popular with a lot of people but it's really...I don't think this bill is going to do what we want it to. I'll respond to any questions. [LB1002]

SENATOR CORNETT: Questions from the committee? Senator Loudon. [LB1002]

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

Revenue Committee
February 03, 2010

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Yeah, you said they've been working on it since 1999. I think they've been working on it longer than that because I think it was clear back in the sixties when Jim Talbot was hired as a state sheriff up there to try to do something about it then. So I know it's been over 40 years and closer to 50 years. I mean you tell us what the problems are and that's obvious. I mean, you don't have to be a rocket scientist to see what the trouble is. I guess, then, what can you tell us what the solutions are? I mean it isn't just shutting down the sales of beer in Whiteclay because that's all that comes out of Whiteclay is beer. The whiskey, wine, the other spirits come out of someplace else and most of the bootleggers are arrested on the north side of the reservation. So, I mean, we have a lot bigger problem than just Whiteclay. [LB1002]

JOHN KREJCI: When we began, I got involved in 1999, the goal was to shut down the source. And we worked very hard and put a lot of human and financial resources in Nebraskans for Peace ads and we've not succeeded in that. It doesn't seem like there's a will to do that because we make a quarter million dollars in tax money off those liquor, those beer sales, you know. That's the problem. The reason that you're doing what you're doing, which is laudable, is because there's not enough support to close those establishments, those four bars for liquor sales, alcohol, beer sales down. [LB1002]

SENATOR LOUDEN: Well, I don't if you can categorically close them down just because they're sitting on some particular piece of property somewhere in the world. I mean, they could go down...they could go down the fence line four miles and set the whole thing up again if you wanted to. Of course, then you have to renew the liquor license but as long as those liquor license have not been, run into problems, why that's the reason they're renewed there, I guess. And there are other stores in Whiteclay. There's only one grocery store in Pine Ridge. There's two grocery stores in Whiteclay. So, I mean, there's a reason for that business to be on that side of the border. And if you've been on Pine Ridge, I don't need to tell you what the reason for that business to be on the Nebraska side of the border if you've been there and lived there as you say you have. And so this is a reason...to me, this is a start. This isn't, and as we say in my...as I said in my opening, this isn't a solution to the problem. This is something that we can probably get started and I think as we've heard the testimony today, of all the eight years that I've been involved as a state Senator, this is the first time I have ever heard any of the tribal members or anybody else, and as Senator Krist went to South Dakota, this is the first time in eight or nine years that this has ever happened. So there is a change coming on here. And this is one little thing we can probably help with that change, do you agree? [LB1002]

JOHN KREJCI: What I like is the fact that there is more people, more of the stakeholders are involved and there's some interest. And I think people working and talking together can improve things. It's a long, hard...I mean, you know the problem. This is a terrible problem. The pathology, the poverty, the despair, it's just...I mean, I've

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

Revenue Committee
February 03, 2010

been on several reservations and Pine Ridge tops it for...I mean, just really, really bad. But yeah, it's a step in the right direction but I'm not sure it's...it kind of takes the pressure off. Those beer sales are still, you know, a great part of the problem, you know. Bootlegging is a part of the problem. And alcohol treatment is...it's a very...this is maybe better than nothing but I'm kind of idealistic. I think we could do better than that, Senator, with all due respect. [LB1002]

SENATOR LOUDEN: Yeah, run for office and see if you can do better. (Laughter)
[LB1002]

JOHN KREJCI: I've been asked, but I know better than that. [LB1002]

SENATOR CORNETT: Not to dispute Senator Louden, but I distinctly remember Whiteclay bills coming to General Affairs when I was on there at least two years in a row. [LB1002]

JOHN KREJCI: There's something but there's much more now, I mean, the Governor, Bruning, South Dakota Legislature. [LB1002]

SENATOR CORNETT: This is just the first one. [LB1002]

JOHN KREJCI: I mean, it's...and you've seen three articles in the paper. [LB1002]

SENATOR CORNETT: I was just going to say this is the first one that's dealt with taxation. [LB1002]

JOHN KREJCI: This one. [LB1002]

SENATOR CORNETT: Yes, but I mean there have been numerous... [LB1002]

JOHN KREJCI: As far as I know. [LB1002]

SENATOR CORNETT: I was going to say, five, six years ago when a number of the senators were invited to a powwow and, I mean, this has been an ongoing problem. [LB1002]

JOHN KREJCI: Oh, yeah. [LB1002]

SENATOR CORNETT: Other questions from the committee? Seeing none, thank you. Next proponent. [LB1002]

JOHN KREJCI: Thank you very much. [LB1002]

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

Revenue Committee
February 03, 2010

WALT RADCLIFFE: Madam Chair, members of the committee, my name is Walter Radcliffe, R-a-d-c-l-i-f-f-e, representing today Republic National Distributing Company. They're a wholesale, alcoholic beverage distributor out of Omaha. To my knowledge, I don't think any of their products are available in Whiteclay. So I say that just parenthetically. Our objection is one that the Revenue Committee has heard for as long as I've appeared before it on issues dealing with earmarking alcohol taxes, whether they're sales tax or whether they are excise taxes. This is something that quite frankly we have always opposed. We've always contended that the General Fund is there to address the issues and problems that arise and quite frankly, there has not...there has never been earmarking of those revenues for anything. In fact, the only excise taxes, I think, have ever been earmarked at all have been tobacco taxes, principally cigarette taxes. But having said that and appearing against the bill, that does not mean that...I mean the opposition here is based upon tax policy. And the bill is not a tax policy bill. And so, therefore, I think I would be remiss if I didn't say yes, we are mindful of the Whiteclay situation and then the next question is, well, if you're mindful of it, what do you suggest? Well, there's two things before the Legislature that I think would address it. First of all, Senator Karpisek's bill, which I believe is in the Government Committee that would appropriate \$250,000 from the General Fund. And I know you're thinking, okay, Walt, you know General Fund, we're broke, we don't have any money. However, the entire alcoholic beverage industry did not oppose a bill that was reported out of the General Affairs Committee that increases from \$200 to \$1,000 the alcohol shipping permits. It would raise approximately a half a million dollars that would go into the General Fund. And I would submit to you that without earmarking but just simply as an offset, that that money would be available to fund Senator Karpisek's program, or should Senator Loudon wish to modify LB1002 to allow the grant program to utilize General Fund dollars, we would have no objection to that. Our objection is specifically with regards to the earmarking contained in the bill. With that, Madam Chair, I'd be happy to attempt to answer any questions. [LB1002]

SENATOR CORNETT: Questions from the Committee? Seeing none, oh, I'm sorry. Senator Utter. [LB1002]

SENATOR UTTER: Enlighten me just a little bit if you will, Walt, on the fund you just talked about. [LB1002]

WALT RADCLIFFE: On the what, Senator? [LB1002]

SENATOR UTTER: On the transportation thing, the shipping. [LB1002]

WALT RADCLIFFE: A bill came out of...there were a record number of bills introduced dealing with alcoholic beverages this year in the General Affairs Committee. And quite frankly, that was a good thing because they were each on a specific subject that heretofore an omnibus bill had been introduced and there was always something

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

Revenue Committee
February 03, 2010

somebody didn't like in the omnibus bill. So this took, through the work with the Liquor Commission, with Mr. Rupe and also with Senator Karpisek, they introduced a number of bills all covering singular items. One of those items, Senator Utter, was an increase in the alcohol shippers' fee from \$200 to \$1,000. Now, traditionally that's something that the distributors have always opposed. And we looked at these bills, we looked at all of the legislation the Legislature was considering this year in the area of alcoholic beverages, and specifically chose not to oppose that for a number of reasons, I mean, one of which was it hadn't been raised for a while. Secondly, it's low in the United States. We really...you know, and it was not...we couldn't come up with a reasonable idea or not to, but at the same time we were aware that Senator Karpisek was introducing a bill for a quarter of a million dollars General Fund appropriation to address the Whiteclay. And we basically said, look, as long as that money is not earmarked, we're not going to oppose the increase in the shippers' fee and since that's going into the General Fund, that certainly can be used as an offset for what Senator Karpisek is proposing. And by saying Senator Karpisek, I could just as easily be saying Senator Louden if, in fact, his bill were utilizing General Fund revenues. Did that answer your question? [LB1002]

SENATOR UTTER: What is the... [LB1002]

WALT RADCLIFFE: What's the number? [LB1002]

SENATOR UTTER: What is expected to raise, the total amount of the shippers? [LB1002]

WALT RADCLIFFE: Approximately a half a million dollars. [LB1002]

SENATOR UTTER: Okay. [LB1002]

WALT RADCLIFFE: I believe that it raises it from \$200 to \$1,000, which is an \$800 increase. And Mr. Rupe is here, but I want to say there were 63 or 68 licenses at that time. And I'm sure he can correct that, so it's just a multiplication. [LB1002]

SENATOR UTTER: Thank you. [LB1002]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB1002]

WALT RADCLIFFE: Thank you. [LB1002]

SENATOR CORNETT: Next opponent. [LB1002]

AMY PRENDA: Good afternoon, Senator Cornett and members of the Revenue

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

Revenue Committee
February 03, 2010

Committee. My name is Amy Prenda, it's P-r-e-n-d-a, and I'm here on behalf of Anheuser-Busch Company. Again, it's really hard to follow in opposition because I think Senator Louden's bill is a good thing, especially with the challenges that we're having in the Whiteclay area. However, Anheuser-Busch has always been opposed to earmarking and part of that reason is because it specifically ends up guaranteeing money for programming which leaves the Legislature and the state with less flexibility for administering and managing their budget. Again, it's not to say that we don't think Whiteclay is in urgent need, but we, too, feel that the bill that's before the Health and Human Services Committee, I think which is Senator Karpisek's bill, LB1005, that creates a substance abuse treatment grant program and specifically appropriates \$250,000 of General Fund to address this situation, is a more appropriate way of handling and dealing with the problems in Whiteclay. And I would be happy to answer any questions if you have them. [LB1002]

SENATOR CORNETT: Senator Louden. [LB1002]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Senator Karpisek's bill addresses that \$250,000. That money has to be matched, doesn't it? [LB1002]

AMY PRENDA: I think it does have a provision in there that talks about funding match money. [LB1002]

SENATOR LOUDEN: Okay. And that was primarily set up to fund the detox center in Gordon, is that right? Because there aren't any detox centers in that area or will it fund detox centers in Scottsbluff or Winnebago or someplace wherever else they might have some? [LB1002]

AMY PRENDA: I think you might be right but I really am... [LB1002]

SENATOR LOUDEN: I mean, this is... [LB1002]

AMY PRENDA: I have a copy of the bill. [LB1002]

SENATOR LOUDEN: Okay. I understand but I think his is more of a shotgun approach for the state of Nebraska where we were trying to narrow this in on the Whiteclay bull's-eye, is that what you would say? [LB1002]

AMY PRENDA: And again, I don't disagree with what you're trying to do with your bill. I think our opposition to it is more the tax policy of earmarking money to go to trying to solve that problem versus just doing a straight General Fund appropriation. [LB1002]

SENATOR LOUDEN: Then if this is a percentage of sales tax, you wouldn't have any problem with it? [LB1002]

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

Revenue Committee
February 03, 2010

AMY PRENDA: If you're talking about percentage of sales tax on everything sold... [LB1002]

SENATOR LOUDEN: Yes. [LB1002]

AMY PRENDA: ...similar to a turnback tax, then no, I don't think we'd have any opposition to it. [LB1002]

SENATOR LOUDEN: Okay. Thank you. [LB1002]

SENATOR CORNETT: Next opponent. [LB1002]

JOE KOHOUT: (Exhibit 3) Chairwoman Cornett and members of the Revenue Committee, Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing today on behalf of the Associated Beverage Distributors of Nebraska, here in opposition to LB1002. Again, Senator Louden's goals are admirable but, in terms of our organization, we have a standing position of opposition to any position relative to earmarking or any attempt to isolate the sales tax. So with that I know that you have many issues in front of you Senator Cornett, so I'll stand for questions. [LB1002]

SENATOR CORNETT: Senator Louden. [LB1002]

SENATOR LOUDEN: Yeah, thank you. Why are you in opposition to the sales tax on alcohol? I mean, it isn't going to cost you guys any money. [LB1002]

JOE KOHOUT: The bill as I understand it, Senator, goes in and actually, for example, there are no alcohol...actually liquor...there is no liquor sold in the Whiteclay area. There are...those are all beer licenses as I understand it, so. [LB1002]

SENATOR LOUDEN: But the way the bill is written, it includes the Gordon, Rushville, Hay Springs, and Chadron area, so there is liquor sold there. [LB1002]

JOE KOHOUT: Correct. But I think, again, to be clear, our position has been and will be that any attempt to isolate sales tax or excise tax is going to be met with our opposition. [LB1002]

SENATOR LOUDEN: Okay. And is there a reason for that? I mean, you know, we have sales tax on...we have sales tax exemptions and we have sales tax that aren't exempt. Is there any reason why that you think that alcohol should not have any earmark or turnback or should they be set aside? Is that because it would probably, perhaps, show how much liquor is being sold in an area? [LB1002]

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

Revenue Committee
February 03, 2010

JOE KOHOUT: That's not the basis of the opposition, Senator. That's not been in a conversation that we've had. The conversation has been strictly a question of why for us and not for others. [LB1002]

SENATOR LOUDEN: Okay. Thank you. [LB1002]

JOE KOHOUT: Thank you. [LB1002]

SENATOR CORNETT: Next opponent. How many further opponents do we have on this bill? [LB1002]

MATT SCHAEFER: Good afternoon, Chairwoman Cornett and members of the committee. My name is Matt Schaefer, M-a-t-t S-c-h-a-e-f-e-r, registered lobbyist appearing on behalf of Sterling Distribution Company. Sterling is a liquor and wine wholesaler in Nebraska, and it is just merely noting its opposition also to earmarking of sales tax. Any questions? [LB1002]

SENATOR ADAMS: That's all your testimony? [LB1002]

MATT SCHAEFER: Yep. [LB1002]

SENATOR ADAMS: Are there questions for this testifier? Seeing none, thank you then. [LB1002]

MATT SCHAEFER: Thank you. [LB1002]

TIM KEIGHER: Good afternoon, Senator Adams and members of the committee. My name is Tim Keigher, that is K-e-i-g-h-e-r. I'm the registered lobbyist and executive director of the Nebraska Petroleum Marketers and Convenience Store Association. And we appear before you today in opposition to LB1002. I guess, first of all, none of the liquor stores in the Whiteclay area are members of ours. We're here for the philosophical reason of earmarking the sales tax. And one of my members made the comment that, you know, what about other communities? The city of Lincoln has an issue with law enforcement and O Street with a number of bars there, and would we be earmarking additional revenue. I guess we feel that LB1005 that Senator Karpisek has, is a much better solution for this and feel that that will provide, you know, needed funds to open a treatment facility and, hopefully, get them going in the right direction. So with that, I will answer any questions. [LB1002]

SENATOR ADAMS: All right. Are there questions? Seeing none, thank you. Any other opposition testimony? Then is there neutral testimony? [LB1002]

HOBERT RUPE: Good afternoon, Senators. My name is Hobert Rupe, H-o-b-e-r-t

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

Revenue Committee
February 03, 2010

R-u-p-e. I'm the executive director of the Nebraska Liquor Control Commission. The Commission is neutral on the underlying facts and proposals. We've long thought that the correct proposal was a legislative function, but I definitely wanted to be over here to answer any questions. Very rarely do I drop a \$98,000 fiscal note on something I wouldn't be at least able to discuss where it came from and why. The Commission currently has 12, including myself, full-time employees. Of those we regulate nearly 5,000 licenses, collect nearly \$29 million a year in excise tax. We just don't have the staff to absorb another job duty of this magnitude and more importantly, we don't have the current expertise. We don't deal with grants. When this issue came before me, Jerry VanAckeren, my deputy, and I sort of sat down and said, how do we do this? Luckily enough, the Crime Commission is right next door, so I went and talked to Director Behm about grants and how they process them. And that's one reason why you'll see in our fiscal note a representative grant administrator, those are a job title within the rules and regulations of the state of Nebraska employees and it starts out at \$45,000 plus, and a staff assistant. So that is why we have that \$98,000 fiscal note. We didn't just create that out of whole cloth. I guess I can answer any other questions. I guess one question I would answer, just came up earlier to Mr. Radcliffe. The Nebraska Liquor Control Commission did have a rather extensive legislative letter that was sent out, many of you would have gotten a copy of it. One of those was to review the shippers' licenses. Shippers are commonly called a first-tier entity, that is the rights to ship into a wholesaler for distribution further down the chain. Those were \$200. The last time we could tell that they even looked at a raise was before I was born, I believe it was 1962. Are we the highest at \$1,000? No. Are we one of the lowest at \$200? Probably not. Some of the control states are lower but they get their money from actually selling the alcohol. It does...most states which have looked at that raising that issue, it puts us right square right where they're at. Minnesota, look at they're at \$1,000. Colorado raised theirs about three years ago to \$750, and so that's where that \$1,000...that's where...and that does resolve into, I believe, a \$490,000 increase in the General Fund. And I see the yellow light is on, so I'd be happy to answer any questions the committee may have. [LB1002]

SENATOR DIERKS: Thanks, Hobie. Questions? Senator Hadley has one. [LB1002]

SENATOR HADLEY: Thanks, Senator. Mr. Rupe, just in a short summation by you, would you please explain the legal difficulties of why the Liquor Commission can't...we've heard the problems with the four distributors or sellers up there and such as that, just a brief overview of the legal problems that the Liquor Commission sees in this dilemma. [LB1002]

HOBERT RUPE: Okay. First off, I will be the first to say that Whiteclay presents unique regulatory problems and compliance problems. One of our...we don't have our own investigators. We have a division of the Nebraska State Patrol which is assigned to conduct premise inspections. Generally, if they show up in Whiteclay, it's pretty common

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

Revenue Committee
February 03, 2010

knowledge right away to what's going on. In fact, the Nebraska State Patrol recently did...about two years ago did a surveillance camera project to try to ascertain regarding some of the complaints that there was...some bootlegging complaints trying to get, you know, some eyes up there that didn't send off all the alarms. Further than that, once you have a liquor license, the Supreme Court...I mean, they haven't taken it to a property right but they've taken it about nine-tenths of the way or more to a property right. And many opinions going back to the 1970's, they've said that if you have a liquor license, you have a...absent there being a change in circumstances that you cannot, you know, i.e., that you've been convicted of a felony, or some other thing which would render you ineligible to have a liquor license, or be found guilty of multiple violations of the act, you have a right to renew that license. And so in the case of here, there are currently four. For a while there were only three. About four years ago, one of the licensees, he was convicted of a crime, Class I misdemeanor, which rendered him ineligible to hold a liquor license. We were in the process of revoking the liquor license for that cause. His son made an application. His son had worked for his father for at least ten years and had at least prior, sold two...had two relatively minor liquor control violations, but he was the person on duty at the time. He was actually the clerk behind the counter. The Commission felt that given the fact that he had already been found guilty twice, one was selling on credit, which is extending credit beyond the one day to...(inaudible), the Commission denied his application and the liquor license was closed when his...the revocation against his father's license went in. We were reversed by the District Court. The District Court said that, you know, one or two relatively minor violations four years previously was not substantial justification to deny him a liquor license to continue on with the family business and the court ordered us to issue a license. So there are multiple difficulties doing it. Unless you can prove that there's a violation going on, and we've already sort of discussed some of the enforcement problems, it's really hard to get rid of liquor license if they remain in compliance. [LB1002]

SENATOR HADLEY: Thank you. [LB1002]

SENATOR CORNETT: Senator White. [LB1002]

SENATOR WHITE: Thank you for coming. I mean, these are normally...affairs issues but this is an area I've been concerned about for a long time. And I have a couple of basic questions right in line with what you said. In Nebraska, is it illegal, is it a violation to sell alcohol to an intoxicated person? [LB1002]

HOBERT RUPE: It is a violation of the Nebraska Liquor Control Act rules and regulations. It is not a statutory violation. It is a regulatory violation. [LB1002]

SENATOR WHITE: Is it a violation to sell alcohol to a person that you know is going to use the alcohol to violate a law? In other words, if you knowingly sold alcohol to me knowing I was going to sell it to a minor, are you aiding and abetting the violation of a

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

Revenue Committee
February 03, 2010

law? [LB1002]

HOBERT RUPE: I think it would be aiding and abetting. I think it's an extension. I mean I'd hate to have to go down and try to prove a conspiracy-type case in front of the Commission. But it could be a violation. We have, you know, we have...just as example, when we were asked, what happens if a 21-year-old walks in with an 18-year-old, can I ID them both? Well, yeah, they can. What happens if I think he's just buying for this 18-year-old? I said, then you don't make the sale. There's no right to buy alcohol, and so you sort of rely upon it. So, you know, is it a violation? I'm not positive. That issue has never come up before the Commission, one step beyond in that regard. [LB1002]

SENATOR WHITE: Well, all right, in general I will tell you if I know someone's going to use a weapon to rob a bank and I know that and I sold them a weapon knowing that, that would be aiding and abetting. [LB1002]

HOBERT RUPE: Yes. Yes. Well, I'm not saying it's not criminal law. I was just representing to the Liquor Control Act. [LB1002]

SENATOR WHITE: Well, any criminal violation through the use of your license is also a violation of Liquor Control Act, correct? [LB1002]

HOBERT RUPE: Yes. Yes. Correct. [LB1002]

SENATOR WHITE: Okay. Here's what's always puzzled me about Whiteclay. We're selling what, 4 million cans of beer in a town of what, 50? [LB1002]

HOBERT RUPE: I believe the...I believe it's about 18 and where that cans comes is, remember, we don't track cans, we track total gallonage. [LB1002]

SENATOR WHITE: Okay. [LB1002]

HOBERT RUPE: And then we convert that total gallonage into a 12-ounce, well... [LB1002]

SENATOR WHITE: Okay. I don't care if it's a can. Okay, 4 million 12-ounce servings. [LB1002]

HOBERT RUPE: Yes. [LB1002]

SENATOR WHITE: That roughly right? [LB1002]

HOBERT RUPE: Roughly. [LB1002]

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

Revenue Committee
February 03, 2010

SENATOR WHITE: And how big is the town? [LB1002]

ROBERT RUPE: I believe it's less than 20. [LB1002]

SENATOR WHITE: All right. Well, I went to Whiteclay and what I saw were obviously intoxicated people buying alcohol, saw people buying huge amounts of alcohol, putting them in their vehicles, then just kind of openly driving into a place where the possession of alcohol is illegal. Watched it. And I wasn't part of any kind of a deal. This was just me and Senator Lathrop came up. What I couldn't figure out for the life of me, why we're not indicting the owners of those alcohol stores for aiding and abetting criminal offenses in another jurisdiction. Because it is flat-out illegal to possess any alcohol in the reservation and they can't possibly drink that amount of alcohol legally in Nebraska. (Laughter) There is no other explanation and yet we are still full-bore selling them. And I've got to tell you what really bothers me more than anything, is the state of Nebraska is making a profit in conjunction with them because like it or not we look like a partner when we take a slice of the profits through tax. Now, what I don't understand is how come somebody is not just flat going after them? And all due respects to many of the business people and the distributors here, the distributors and the brewers know, they know with substantial moral certainty that alcohol is being imported into a place where it's flat illegal to own it. And they're selling alcohol as fast as they can brew it. And I don't understand why they're not legally lawfully responsible both civilly and criminally. And I'll tell you what the damages are. The damages in my mind civilly, and I've done a lot of these kind of lawsuits, are all the hospital bills that the tribe is encountering for treating diabetes, liver failure, kidney, the social cost to intervene in families. The legal cost to prosecute alcoholics and people importing it. And I don't get it. Those laws are happening in Nebraska and it's no more right that if I'm sitting on the border in Omaha shooting bullets into Iowa, because that's exactly what's happening. We're killing people across the boarder and it's unacceptable. And I don't understand why the Commission is not fighting and finding a better way to solve it. [LB1002]

ROBERT RUPE: If I could answer the question, if I understand the question, the Commission as I said, does not have its own enforcement. We rely upon reports from the sheriff's office, we rely upon reports from the Patrol, we rely upon reports from other law enforcement agencies. When we don't get...if we don't get those reports there's nothing for the Commission or Attorney General's Office as a prosecutor to act upon. [LB1002]

SENATOR WHITE: And you may not have the ability. I'll tell you part of my frustration is I went to the tribe. And the tribe members should hold their heads and shake them in shame because they could sue every one of those entities I name civilly for damages. And they'd have an excellent chance of winning. And if they lost, which I don't think they would, but if they lost they'd so shame them that, hopefully, nationally, internationally, the pressure would rein in, your distributors rein in supply, inordinate supply of alcohol

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

Revenue Committee
February 03, 2010

to places where you know it can't be legally disposed of. And the tribe wouldn't do it either. And the only thing I can conclude is, there's a lot of people in a lot of places making a lot of money. And it's just wrong. [LB1002]

HOBERT RUPE: Okay. Well, as I said, you know, the Commission did get a report regarding some of the bootlegging and we took that to the Patrol and the Patrol did do a...I mean, they did... [LB1002]

SENATOR WHITE: I mean I know, but if you and I went out there today and we just quietly sat there for a little while, you would see exactly what I'm telling you. [LB1002]

HOBERT RUPE: I've been there and if I went out there right now, I would have the ability to write a tavern for violation. But, like I say, we're relying upon what reports we're getting from law enforcement and, you know, we can only act upon those reports as come into us. [LB1002]

SENATOR WHITE: Now, all I can say is, I appreciate your patience, but I am seeing a systematic turning away and we're killing people. [LB1002]

SENATOR CORNETT: To follow up on Senator White's line of questioning. Do you act on reports from the tribal police? [LB1002]

HOBERT RUPE: We've never...to the best of my knowledge, we've never seen a report from the tribal police. [LB1002]

SENATOR CORNETT: Well, that brings up the following point that Senator White just mentioned with him going to the tribes. When I was on General Affairs I had a number of, you know, calls afterwards and had people coming into my office saying that a lot of the members of the tribe were the one bootlegging alcohol into the reservation and that the tribal police weren't doing anything about it. And why is there no pressure being brought on the tribal police and the members of the tribe that are perpetuating this problem? And I'm not saying Nebraska is not at fault here. But my line of questioning at the beginning of this hearing is, why should Nebraska foot the entire bill for this when no one else wants to accept responsibility? [LB1002]

HOBERT RUPE: Okay. Senator, I tell you what, that's why we support the cross-deputization agreement. In fact, Sergeant Costello, who is in charge of Nebraska State Patrol, Liquor and Tobacco, and myself in preparation of thinking that there would be the cross-deputization agreement, had already prepared to go up there and instruct the tribal police on Nebraska Liquor Control Act laws, you know, which may not be there. And so, we were ready to go and I was fully expecting then to get tavern violations from those sworn officers. When that did not go through, that went down. [LB1002]

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

Revenue Committee
February 03, 2010

SENATOR CORNETT: Why didn't it go through? [LB1002]

HOBERT RUPE: You would have to ask the tribe and the Attorney General's Office on that. They were working on that. We were prepared and we had already been doing, at least somewhat strategic planning, if they were able to start and enforce and live with Nebraska Liquor Control Act, to give them a one-day law course on it. [LB1002]

SENATOR CORNETT: Well, I was...just real quick. Here's my read and I haven't been here that long, but I've been here for six years and six years of different bills on Whiteclay, whether it was in General Affairs or wherever it was, and you have a lot of good people that want to make a change for the better. But you have institutional resistance to that change in solving the problem all the way across the board including from South Dakota, the tribe, Nebraska, the liquor dealers, everyone. I mean, you've got a handful of people who come in and testify and they really mean well and they really want to solve the problem but it's like we're ramming our heads against a brick wall, if you can't even get the people that are hurting to help themselves. [LB1002]

HOBERT RUPE: I share your frustration, Senator. I've been director for six years. As I can tell earlier, I think the Commission, just to go back, did the right thing in denying a person who had been proven to violate the act beforehand, and we got reversed by the court in order to get a license. You know, I understand the frustration. I mean, our theory always was, you know, that there was more law enforcement resources, you know, dedicated towards that area. Perhaps when we get...you know the key thing the Commission also wanted to do was either prove or disprove, like for instance, the allegations of the bootlegging, tribal members bootlegging. You know, we either wanted to prove that they were violating the act and selling illegally, in which case they would lose their liquor license. But without law enforcement resources dedicated to it, you know, the Commission's hands are somewhat tied. [LB1002]

SENATOR CORNETT: Basically, the problem is you have less...Senator White said earlier, you have a handful of people on both sides making a lot of money off of it. [LB1002]

HOBERT RUPE: I cannot argue with that at all. I never thought that all the alcohol was consumed at Whiteclay. [LB1002]

SENATOR CORNETT: Senator White. [LB1002]

SENATOR WHITE: I would really like to make a point so it's clear to everyone. Right now today, in my opinion, and I've handled a lot of different kinds of lawsuit and I've lost a lot and I've won a lot, right today, the tribe has the power to file a lawsuit to stop this. They have that power to get that attention. All right. They have not acted. I don't like

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

Revenue Committee
February 03, 2010

that. Really upsets me because we can't solve it unless they also helps us. It can't be done. But I don't like the fact that as a citizen in Nebraska we're making money by aiding and abetting people, we're killing other people for profit. I mean, I cannot tell you how morally reprehensible that is that a responsible state would participate in those kind of activities. And all we have to prove, I think, if we're creative, you cannot possibly legally dispense that much beer in a place of that population. End of story. And they're doing something illegal. And I would appreciate if the Attorney General and others, if the tribe will not act, that they look at it. And it won't just chase it down the highway because the next place that starts selling disproportionate amounts of alcohol given the population around them, chase them too. Thank you. [LB1002]

HOBERT RUPE: Thank you. [LB1002]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB1002]

HOBERT RUPE: Thank you. [LB1002]

SENATOR CORNETT: Is there anyone else in the neutral capacity? Seeing none, Senator Louden, you're recognized to close. [LB1002]

SENATOR LOUDEN: Thank you, Senator Cornett and members of the committee. And, of course, I wanted to thank the people who came to testify for this and also those that testified in opposition because with the opposition testimony we can probably work out better...a better plan than what we had. As I mentioned before, and that President Two Bulls had mentioned, about the cooperation between Nebraska-South Dakota and the Pine Ridge, and as near as I can remember I had never heard of that cooperation before. So probably the time is getting better that something can be done. And I think one of the ladies from the Indian Council testified that they're getting educated enough so that they understand how some of that goes and they find out that they can do things and they are doing a great job of getting money from the BIA and Indian Health Service. Now, one thing, the BIA is the one that furnishes law enforcement on the Pine Ridge Indian Reservation so with that and as I talked to the Commission...or Judi gaiashkibos, director of Indian Commission, that in order to make any of this work we're going to have to get cooperation between the Bureau of Indian Affairs, the Indian Health Service, and state of South Dakota and Nebraska and she has been working to get a meeting set up between some of those people. So this has to be something that goes from all the way around. Now, as far as the bill, as I said I have this amendment here to take out the Macy part of it. And also from the director from the Liquor Commission mentioned, he don't have the manpower or the expertise in order to handle this. Now, we will probably look for some other agency to handle the implementation or the grant program that goes with this thing. Now, whether as they mentioned, I think Senator Utter mentioned a sunset on it. I have no problem with that. It probably would be a good idea.

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

Revenue Committee
February 03, 2010

Also as the opponents of it, mostly the liquor distributing companies that were opposed to this didn't want just a turnback on beer or alcohol. And that's fine. There could be a percentage of the sales tax in that area. If you can figure it out to about where, about \$200,000 comes out at, that would probably work. Some of the opponents were against this bill we're hanging their hat on LB1005, Senator Karpisek's bill, and I think that's a good idea. But you want to remember, it's a one-time, \$250,000, deal, one time. You've got to have some match money to make it work, and that's the end of it. Myself, I would rather like to see some type of a revenue stream so people can make the plans. If you have a one-time shot, why that's...if it doesn't work right away, part of the money goes away and there it is. The cross-deputization, I've been involved in that a little bit. There was real problems with that and let me tell you from someone that lives around there, cross-deputization was a bad idea from day one and I don't care if the Governor or Attorney General is the one that instigated it. It was a poor idea from day one. It isn't going to work because first of all, and we've had testimony from some of the Indian police up there, if they cross deputize they come into Nebraska and they arrest somebody, they got to load them up and take them on down to Rushville, some 25 miles away, to put them in jail. Then they have to drive back to their station back on the Pine Reservation or near Whiteclay. So that part didn't work. Besides the fact at the present time, Sheridan County is usually maxed out. I think they have a 20-bed jail and they're usually sitting around 16 or 18 at the time so you can't go up there and start arresting somebody for drinking in public. Otherwise, there isn't enough jail room to go around. So that's been part of the problems. That's the reason if we get some type of a revenue stream that I can see, to probably, detox seems to be the biggest issue right now. And we have to be very careful when we put money in for a detox center because the one that's going in Gordon now, some of those centers will only let a person in there, they'll be in there for two, three, maybe five days and then they'll let them out. And as I've talked to people up there in Gordon, and that's the country that I come from, what it has is a nickname for bed and breakfast for drunks. And that's what it is. If you don't have a complete program, take a person in there, put them through the whole 28 days and do something with them, then you've just throwed all of your money away. So Senator Karpisek's is a bill in the right direction, but I would like to see that when we get to that one, or when they get to that one that it is well implemented. With that I would ask that you keep this bill in mind. It isn't something I'm going to ask you to get out right now because it needs some work done on it. But I would certainly ask you to support it because I think the time is right now that something needs to be done. As I said before, as far as I know, this is the first time the Legislature has every went this far to address the problem. [LB1002]

SENATOR CORNETT: Further questions from the committee? Seeing none. [LB1002]

SENATOR LOUDEN: Thank you, Senator. [LB1002]

SENATOR CORNETT: That closes the hearing on LB1002. Senator Mello, you're

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

Revenue Committee
February 03, 2010

recognized to open on LB1073. [LB1002]

SENATOR MELLO: Good afternoon, Chairwoman Cornett and members of the Revenue Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District. I come before the committee this afternoon as the introducer of LB1073, a bill that would establish the Building Nebraska's Creative Economy Act. Through the adoption of LB1073, the components of Building Nebraska's Creative Economy Act will create an infrastructure essential to attracting and growing the state's artistic and cultural heritage. Nebraska is rich with young creative talent and visionaries who all too often choose to leave their home state to pursue creative opportunities elsewhere. LB1073 is designed specifically to ensure that no state tax dollars will be given or expended on a film or television project until after the production dollar amount outlined in this bill has been met. Stated differently, all eligible producers are on a, quote, unquote, pay-to-play eligibility basis, and the tax credit program will only be extended to those committed to funding projects within Nebraska's borders. I also believe that the fiscal note on this bill can be dramatically reduced in staffing and other aspects. The fiscal note also demonstrates something else. It shows that there is a strong potential for bringing productions to Nebraska if we lay this groundwork. Stimulating Nebraska's economy is a major focus of this bill. It is my intent that LB1073 will first serve as a catalyst to provide more jobs for talented Nebraskans, generate dollars for local businesses, and increase our state's nationwide image and competitive edge through the creative mediums of film and television. By implementing a state film production tax credit program for qualifying film and television projects, all Nebraska-based production expenditures spent inside the state, depending upon where they are spent and if they use Nebraska-based musical productions, will be eligible up to a 22 percent income tax credit. You may have read in this morning's Omaha World-Herald that a Papillion, Nebraska, man was nominated for an Oscar yesterday for cinematography work in the film, Avatar. Although not a homegrown Nebraskan, his family lives in Nebraska and he moves around the world to follow the work. Wouldn't it be great to see that opportunity to work right here in Nebraska? Currently, our state is one of only eight states that does not have an existing film incentive program. As recently as the spring of 2009, Nebraska missed out on an opportunity to host nearly a six-week production for the film Up in the Air. The film, which was just nominated for six Academy Awards, was filmed primarily in Missouri and Michigan despite the fact that Omaha plays a large role in the film as the location of the main character's company headquarters. The reason for this decision was plain and simple: Nebraska did not have an existing film production incentive to compete for the project. With that, I'll answer any questions from the committee. [LB1073]

SENATOR CORNETT: Senator Hadley. [LB1073]

SENATOR HADLEY: Senator Mello, thank you. Just...I wish I could remember and I can't, but hasn't Iowa had some problems with their law that they have on the books

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

Revenue Committee
February 03, 2010

right now? [LB1073]

SENATOR MELLO: The state of Iowa has had some transparency-related issues in regards to, I think, the management of their film tax incentive program. And in drafting this different version from the bill I brought to the committee last year, we took that well into consideration to ensure that exactly what I stated, a pay-to-play basis, is the establishment first, which is companies would have to show what they're going to spend in Nebraska first before they even started to apply for a tax credit, let alone show obviously a detailed explanation of all the expenditures that they did in Nebraska. And that's a big component for this bill, LB1073, compared to the film incentive bill I introduced last year which is they only get credit for obviously the expenditures they make in Nebraska. And I think to some extent that was part of the confusion in Iowa in their film incentive bill, is where were those expenditures made, and if they were getting credit for expenditures that were not made in that state. [LB1073]

SENATOR HADLEY: Thank you, Senator Mello. [LB1073]

SENATOR CORNETT: Senator Pirsch. [LB1073]

SENATOR PIRSCH: Would this--the way you've structured this bill--as well, address some of the problems that occur? I think in Michigan, as well, their film office...are you familiar with the problems up there? What was that based on? [LB1073]

SENATOR MELLO: Michigan, it would be my personal opinion, Senator Pirsch, that I think the Michigan model was...they couldn't generate a cost-benefit analysis in regards to the level of incentives that they produced. And there's a testifier after me, former deputy director of the Department of Economic Development, who did a cost-benefit analysis that will show that by enacting a film tax incentive program, that we do actually see the benefits more than the potential revenue lost through an income tax credit program. More importantly, I think that's the key component for the Michigan model, or at least the state of Michigan's plan was their incentives were too high without being able to justify why they were that high and be able to show, I think with pure empirical data, that they were making more revenue or creating more jobs and receiving more income tax revenue and sales tax revenue than they were kicking out. [LB1073]

SENATOR PIRSCH: Great. Thanks. [LB1073]

SENATOR CORNETT: Seeing no questions...oh, I'm sorry. Did you...? [LB1073]

SENATOR UTTER: Thank you, Senator Cornett. Senator Mello, the structure of your program with regard to the tax credits, what basis did you use to determine that the structure you had is appropriate or not appropriate? [LB1073]

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

Revenue Committee
February 03, 2010

SENATOR MELLO: In looking at what other states have done, particularly looking at this from, I think, a competitiveness issue of how can we make the state of Nebraska competitive with our regional neighbors, we looked at the state of Oklahoma where the state of Oklahoma has seen a sizeable increase in their film industry with their existing legislation. And just this year their legislature moved to increase the limit that they had placed on their film tax incentive program because of the massive amounts of work that they were seeing come into the state. So we took what we thought has been working in the Midwest through Oklahoma as the model for our legislation. And in similar mode, Oklahoma, while knowing that some of the film incentives, and film projects, I should say, would be targeted for more of their metropolitan areas. We also looked at trying to make sure that this was an expanded statewide perspective. That is why there is a component of the bill that would allow a production to receive a 3 percent increase in their income tax credit if it's filmed, the project is filmed outside of a metropolitan area. And that's something Oklahoma also looked at, knowing that they have a Panhandle, as well, and wanting to ensure that films were not just...or projects were not just directed to just their urban areas. So that is the model that we used in regards to putting the bill together, of looking at a program that's successful both in a transparency and in regards to what Senator Hadley asked, so that we wouldn't see some of the problems that Iowa has gone through, or Michigan for that matter. And Oklahoma seems to be the glaring example of success in the Midwest for a very moderate, measured incentive program. [LB1073]

SENATOR UTTER: And the incentives that you have designed here are better than Oklahoma's? [LB1073]

SENATOR MELLO: I think...I don't know if they're better; I think that they're comparable in that sense. There's a 17 percent income tax credit that you could qualify for on a production and a 3 percent increase for a project that is filmed outside of a metropolitan area, and a 2 percent added credit if you use a Nebraska-based musical production...or I should say, some kind of a musical production, whether it is done by a Nebraska company or a Nebraska artist, so to speak. That qualifies you for a 2 percent increase so that we could expand the scope of the creative economy of not just making it about film and television, but obviously there's an awful lot of musical productions that are done, musical artists in Nebraska that contribute to film and television in regards to their background music, various musical numbers that are supplanted and used throughout the film. So it was a little bit more encompassing in that sense, too, and I think it would make us more...it would make us, obviously, much more competitive than we are now because we have no incentive, and thus, we are not competitive for projects of any real size. But by no means are we giving away the bank to try to create this industry in this state. [LB1073]

SENATOR UTTER: The 17 percent tax credit is based on taxes that they...a rebate of 17 percent of the taxes, of the Nebraska taxes that they would pay? [LB1073]

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

Revenue Committee
February 03, 2010

SENATOR MELLO: It's based on a host of issues and I could try to walk you through. Part of it's based on the salaries that they pay to Nebraska employees or people that they would hire in Nebraska. [LB1073]

SENATOR UTTER: Rather than go through the whole litany, how much taxes is a film production company going to pay in Nebraska? [LB1073]

SENATOR MELLO: I think that's relative to the project, and I would actually defer to Mr. Miller... [LB1073]

SENATOR UTTER: So I guess my question then becomes does this bill allow them a film production company in any way to receive more than 100 percent of the taxes that they would actually pay in Nebraska? [LB1073]

SENATOR MELLO: I believe so, no, and the cost-benefit analysis that we will give to the committee I think will show that as well. Granted, the bill is based on expenditures, as well, and it's expenditures that would be on production cost expenditures, services rendered, supplies purchased, things of that nature beyond just the salaries that would be paid to Nebraska workers, similar to Nebraska Advantage in the sense that you make an investment in a facility, so to speak, where that's not directly related to income taxes, but it's more made to the investment of the venture. [LB1073]

SENATOR UTTER: You see, I see this different than the Nebraska Advantage thing, because this strikes me as "here today, gone tomorrow" type situation. And where hopefully the incentives that we are providing through the Nebraska Advantage program, as for some type of a permanent type of economic development in Nebraska. So it strikes me as being substantially different than the Advantage program. One last question for me is that the...as a member of the Appropriations Committee, I have to ask you where are you going to find 260 grand? [LB1073]

SENATOR MELLO: Well, that's part of the...this is actually part of the concern I raised in my statement in regards to the fiscal note. First off, I think, that I think the fiscal note was a little too generous in regards to the number of employees that are needed to execute this program. First off, I think there's a lot of rules and regulations that would go into if this bill was passed. It would take...it would have a serious amount of lag time, I would say anywhere up to six months minimum before the program could actually get up and started. So I would say some of the numbers that were used in the fiscal note I think could be dramatically altered in that sense. But the main component is the staffing component of it, I think, which is it said that there would need to be two new employees as well as a \$40,000 contract right now that already is in existence for an employee. I think you can cut that down to one employee. And I think I can find the \$100,000 that would be associated for one new employee to manage this program, if necessary,

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

Revenue Committee
February 03, 2010

knowing the economic benefits that would come from it. [LB1073]

SENATOR UTTER: Thank you. [LB1073]

SENATOR CORNETT: Senator Mello, I just want to clarify that you have this structured that the credit is strictly based on the amount spent in the state, correct? [LB1073]

SENATOR MELLO: Yes. [LB1073]

SENATOR CORNETT: And that it is the purpose to bring films in which are not long-term businesses but do bring in a significant amount of revenue to the state. [LB1073]

SENATOR MELLO: (Exhibit 4) Yes. And one last thing I should have mentioned in the beginning of my testimony. I have a letter from Alexander Payne, director, a well-known Nebraska director who most recently has directed the film...I guess Sideways is one that most people are aware of in regards to the economic benefits that film did to the California wine country, so to speak. And there's no need for me to read his letter, but I want to make sure it was put in the record. He shares a very interesting perspective, I think, from someone who does this for a living, as well as someone who is looking to do a potential film in Nebraska entitled Nebraska. And he's currently doing a film called Cedar Rapids and is obviously not doing that in Iowa. But that's...I'll kind of leave it at that, I guess. I'd like the committee to read that letter and just make sure that it's included for the record. [LB1073]

SENATOR CORNETT: Yes, Senator Hadley. [LB1073]

SENATOR HADLEY: Just one quick question and I don't want to spend a lot of time on it. But we had an interesting discussion on the floor today about fiscal notes and between Senator White and Senator Heidemann. You being on the Appropriations Committee, the revenue part of this fiscal note basically just takes into account the expected decrease in revenues because of the tax credits. It does not take into account the potential spending that would generate tax dollars. Is that a correct statement? [LB1073]

SENATOR MELLO: That, Senator Hadley, that I have reviewed that yesterday afternoon, as well, and just to make sure I got an understanding of it and I compared it. Actually, I requested both the Nebraska Advantage Act fiscal note as well as the Nebraska super advantage fiscal note...Advantage Act's fiscal note to see kind of how all three lined up, and that was my understanding is that it only accounts for...and actually the other two Advantage Act incentive programs had similar language as mine does, which is it does not generate or does not discuss the new revenue that comes into the state; just the revenue expenditures or the lost revenue. So as far as I know,

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

Revenue Committee
February 03, 2010

that's been fairly consistent with the other major tax incentive packages that we pass as a state. [LB1073]

SENATOR HADLEY: Thank you. [LB1073]

SENATOR CORNETT: Senator White. [LB1073]

SENATOR WHITE: One of the things I'd like to address is the criticism that these are only episodic transactional matters. In fact, in the industry called Hollywood, which is pretty well developed, is based on a series of small transactions. The issue, isn't it, to get the culture here and to get the people here, and then you'll have a whole series and hopefully an ongoing and continuous series of economic transactions because they're comfortable doing business here. I mean, there are any number of businesses I can tell you about if you look at them in a snapshot, they're a one-time shot, whether it's a real estate salesman, to all kinds of things. But that's not the point. One of the things I want to talk to you about is Nebraska's ties to the industry and our ability, other than Alexander Payne, to get people here. I mean, my first cousin runs all the wardrobe for General Hospital. She knows that she'd love to have things here, but says there's no way she can even get...talk to the financing people. And General Hospital is an ongoing studio production and they shoot every day, you know, year-round. So, Senator, have you talked to people about how we can address that challenge that it's only episodic, that it's not long-term or meaningful? [LB1073]

SENATOR MELLO: I think...and thank you, Senator White, and I should have mentioned to Senator Utter that there will be testifiers after me who kind of explain and go into more detail the longer term permanent opportunities that are available to Nebraska if we decide to create a film incentive program. Such things as, obviously, filming studios, music production studios, production studios, in general, are sizeable building ventures and sizeable investments that really there's no need to really create a large one because there's just not a lot of that activity being done in the state. And such states as Louisiana and New Mexico, who are now kind of at the forefront of this industry, have seen more of their growth in that permanent presence that comes with film and television production and music production than almost the filming itself. They're seeing the growth of the construction areas and construction arena that comes with this industry once you start to build the industry. But unfortunately we have to get our foot in the door first, as a state, before we can start to see these new production facilities and other more permanent-looking opportunities come to our communities because at this point there's no need for them to come when there's no film or television production being done. [LB1073]

SENATOR CORNETT: Senator Pirsch. [LB1073]

SENATOR PIRSCH: Just, I personally don't have any problem. It is a different

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

Revenue Committee
February 03, 2010

substantive nature, this, you know, series of one transactions, and I think the other incentives. But I'm...I mean, I'm okay with that difference. A question with respect to opportunity costs. I assume, is the sole basis of your interest in this particular industry, the film industry, such that you believe it is the best in terms of bang for the buck, if you will, for the finite resources the state has in terms of economic development? Or are there other motivating things? You want to create an environment for youth that, you know, want to stay in the state, and, kind of, indirect benefits? [LB1073]

SENATOR MELLO: Well, I think you kind of answered my question through your questioning, Senator Pirsch. I think it's multiple...I think it's a multiple front approach, so to speak. I think right now in the economy that our state is in right now, that we have an opportunity to grow a new industry that currently is not generating revenue, is not creating jobs, is something that right now is happening all around the state of Nebraska that's currently not happening within our state. So I think there's...the opportunity costs is (1) bringing in and helping nurturing and stimulating a new industry. Second, though, I think that new industry is very focused on obviously it's called the Building Creative Economy Act. It is a different kind of an economy. It's not a...you know, it's not, quote, unquote, a technology-driven economy or some of the other economies that we are used to looking to explore, such as I'm a big believer in regards to data centers in that technology-driven economy. But this is different because it involves some of the artistic nature and artistic professions in our various communities. Film and television and music are the three major, I suppose, three major industries within this creative economy. And it just...I think part of that speaks to the brain drain issue that I mentioned in my testimony, which is the more we can diversify Nebraska's economy and the more we can diversify this economy through promoting the creativity of Nebraska's youth and younger entrepreneurs, I think that's only an added benefit. And I think it's something that at this point of time we're losing these people to other parts of the country because if you want to go into film, if you want to go into music, if you want to go into television, you don't stay in Omaha, Nebraska. You don't stay in Kearney or York or Bellevue. You go to the coasts. And I think there will be people who come and testify after me who can explain that because they've traveled that path. And they don't do their business in our state for a reason. And my hope is that LB1073 will start to change that so that we can continue to keep or try to keep some of our young creative talent in Nebraska, working in Nebraska, investing in Nebraska. [LB1073]

SENATOR PIRSCH: Thanks. [LB1073]

SENATOR CORNETT: Seeing no further questions, are you remaining for closing? [LB1073]

SENATOR MELLO: I think so, but I might waive it. [LB1073]

SENATOR CORNETT: May I see a show of hands for how many people are here to

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

Revenue Committee
February 03, 2010

testify on the bill? Okay, we will use the light system. You will have three minutes and I'm limiting testimony to one hour because of the lateness of the hour. May I please have the first proponent. [LB1073]

MARK HOEGER: (Exhibits 5-8) My name is Mark Hoeger, H-o-e-g-e-r. I'm from Omaha and I'm here representing the Nebraska Film Association as its president. Before we begin, I want to introduce several letters from individuals who are willing to come testify but out of mercy we encouraged them to submit their comments in written form. But I hope you take the time to take a look at them. There's Robert Lane who is from the IATSE local union and is very active in potential training of employees, local employees in this area; Joe Ricketts who is a well-known, obviously legend, in Nebraska, is now in the film business and is very interested in this area and endorses it, as well too; Manya Nogg has been involved in casting for many years and many of the film projects that have come to Nebraska; and here's also a survey of what other states are doing throughout the United States. Very briefly, there are three basic reasons why film incentives are a good idea. One is the direct economic and jobs impact that they have. The second is the what it can do for you, especially in terms of tourism and creating an image for the state. If you've had an urge lately to go to New Zealand, it's probably because you saw Lord of the Rings, and realized what an incredible place it is. And the third thing is what Heath was just talking about. Heath was talking about was the creating of this creative class of youth retention and involvement. It makes you just a neater place to be. It makes young people feel like this is a...I don't have to go somewhere else to be part of the world; it happens right here in Nebraska as well too. Early on in this process, Alexander Payne was very interested in this issue because he does want to make this film called Nebraska in Nebraska. And he wants to do for the state what he knows that Sideways did for northern California in terms of creating an image. And he's a genuine Nebraska patriot because he could easily shoot this in Oklahoma and probably nobody would know the difference. But he really believes in what it can do for us as a state. So early on, Governor Heineman was good enough to meet with us. We also met with the interim committee here at the Revenue. And the message we all got was it's well and good but it better be revenue neutral; and if it's not revenue neutral, it ain't going to happen. And so we worked very hard to make sure that in the end, Nebraska we hope even comes out ahead in terms of revenue. And Stu Miller is going to come after me to give the details on that. But we are willing to work with the committee, with the Department of Economic Development to make sure that this thing not only breaks even, but even makes money for the state of Nebraska. [LB1073]

SENATOR CORNETT: Thank you. Questions from the committee? Seeing none...oh, wait. Senator White. [LB1073]

SENATOR WHITE: One question, Mark. Thank you for coming. Can we create a stable, consistent industry based on a series of movies or TVs... [LB1073]

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

Revenue Committee
February 03, 2010

MARK HOEGER: Yes. [LB1073]

SENATOR WHITE: ...to address Senator Utter's concern? This just isn't fly-by-night. [LB1073]

MARK HOEGER: Right. That's a very good question and there will be other people to talk about it. But, yes, absolutely. There's already a well-established small industry in Nebraska, a group of professionals who, day in and day out, make their living doing commercials, corporate image kinds of films. But many of these same crew members live and work here in Nebraska and have participated in feature film production, not only in Nebraska, but around the country. There are vendors here who supply lights, carpenters, seamstresses, makeup people, and they all live and stay here. And just like when a contractor may come in from out of state to build a building here, but they're not going to bring in the sheetrock people and the electricians and the plumbers. They're going to hire local folks to do that. And that's what happens with these big film productions. A few of the key management personnel, creative types come in to manage and oversee the production, but the vast majority of the expenditures are local hires. And if Nebraska could get even three or...two or three of these projects a year, going, that would increase the amount of work available for our local employment base. And in between time, they would be doing Nebraska Furniture Mart commercials and corporate image pieces for Valmont and that kind of thing. So that's how that works. [LB1073]

SENATOR WHITE: Thank you. [LB1073]

MARK HOEGER: Okay. Thank you. [LB1073]

SENATOR CORNETT: Next proponent. [LB1073]

STU MILLER: (Exhibit 9) Senator Cornett and members of the Revenue Committee, my name is Stu Miller, S-t-u M-i-l-l-e-r. I'm now retired but worked 33 years for the Nebraska Department of Economic Development, the last 16 of those as deputy director, and the 15 prior to that as director of research. I come to understanding something about this industry as a result of having the State Film Office at the department and my being direct supervisor for it. I come to this project because of a phone call I got from Mark Hoeger asking if I would prepare a paper analyzing the film industry and the possible incentives here. So I did. And it's here. You'll get a copy, along with my testimony. I'll not go over...I'll not read my testimony, but I will tell you what I found out. One thing I found out that I already knew was this is an exploding industry. It's no longer traditional film. It's commercials. It's DVDs. It's hundreds of programs that appear on dozens of TV channels. That's the first thing, which means, of course, that there's that kind of increase in the projects available. The second thing I learned was

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

Revenue Committee
February 03, 2010

the massive increase in the number of states that are providing incentives. I was very surprised that there had been as many as there have been, and as has been mentioned by Mark or by the senator. Last spring, that numbered 42 and we were not one of those. The third thing I found relates to the fiscal note. It has already come up and I didn't know it was discussed on the floor today, but it's the nature of the fiscal note. And that's...you know, the people who put these things together are given instructions to do that, and they do it. I'm going to refer directly to the fiscal note for this bill and I'll parenthetically say that I'll start at the bottom and say that the last paragraph there about the \$40,000 contract for the film officer. That's far higher than it really is. Also I don't believe the DED would need two and a half people to run this program. I think they can do it for less than that, and the senator has already indicated that. But the number that I want to refer to is the \$2.2 million at the top for fiscal year 2010-2011. That's a shotgun estimate by the Department of Revenue regarding the amount of tax revenues they think will be used as incentives for this program. First, I think that's way too high. We're talking about trying to get a program up with a lot of rules and regs and new forms and new procedures that haven't been in place, and that takes a long time to do that. And then for that to be rolled out, I just can't believe it's going to be \$2.2 million. Now, it will grow as time goes on. The second part of it is the issue that has already come up. This does not say anything about the impact, what kind of revenues will come back. Now, if you have...and I'll not go over it again, but if you have the study which is "A Review of Incentives..." etcetera, pages I think 7, 8, and 9, or thereabouts, there's a section in here on benefit cost analysis, which--yeah, Senator, on page 8--that I put together that tries to estimate what the benefit and costs would be, the benefit to the government versus the cost to the government of a 20 percent tax incentive program. And if you go down through it, it has to do with all of the turnover and expenditures that occur as a result of, in this case, film production activity. And it makes an estimate for all of those tax revenues. What I came up with was...and this, by the way, was done on an actual project that did get shot here in the state. What I came up with was that there is a return of about \$1.08 for each \$1 of tax revenue. In other words, the return back to state and local government is 8 cents per dollar greater than the incentive provided. Now keep in mind, this is a 20 percent...I used a 20 percent tax incentive; whereas, this program in LB1073 would be a 17 percent. This project would then have a return of something like 25 percent so it would be much higher, which, of course, implies that we ought to reduce all the incentives so that we'd have a greater impact on per dollar. But, of course, as you reduce incentives, you don't get as many projects and then you forgo the benefits of the program. We did that one time, I remember, when we passed one where we reduced the incentives because the impact was so great...and, of course, nobody ever used the program. But at any rate. And I think there's some value in looking, at your looking at that critically. Let me say that...I'll finish by saying this. In my last few years at the Department of Economic Development, we were getting 10-15 phone calls a week from producers. We get less now. Because the first thing that happens when they ask...the first question they ask is, do you provide incentives? And when they get a no, that's it. We don't hear from them anymore. And when we get back in touch with them, they're

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

Revenue Committee
February 03, 2010

not interested. So...and the industry has become much more aware of these kinds of things around the nation. You know, information passes so readily now that if there is to be a response from the industry, it will be because of tax incentives. This industry will respond. And right now, we, frankly, can't swing the bat. We don't have one, so can't make any hits. I'll stop with that and answer any questions if you have them. [LB1073]

SENATOR DIERKS: Thanks. Any questions for Stu? Senator White. [LB1073]

SENATOR WHITE: Yes, Stu, thank you for coming. I'm going to make this short. Stu, Iowa had a disaster on their film incentive. Have you looked at this particular bill, or are we going to have that kind of problem? If we enact this, are we, in your opinion, going to see \$1.08, give or take, for every dollar we put in? [LB1073]

STU MILLER: Well, I have looked at the Iowa situation and I know how we operate in Nebraska when it comes to doing these kinds of things. We have a very...well, I think we have a strict auditing program. It's generally done through the Department of Revenue when it comes to tax incentives, but DED has some because they've got a lot of grant programs and need to go out and do auditing. Auditing is critical to this and I think that's the piece that was really missing in Iowa. The other thing is that there was such a scramble in Iowa. I mean, their program was three times what this one is. I mean, the state of Iowa was putting 50 cents per dollar into projects in the state. [LB1073]

SENATOR WHITE: So, Stu, cut and boil it down. Are we going to have the Iowa problem or are we going to see a return, in your opinion, of around 8 cents for every dollar? [LB1073]

STU MILLER: I don't think you'll see the Iowa problem here. I just don't think that's the way we operate in this state. [LB1073]

SENATOR WHITE: Are we going to see 8 cents a return on a dollar, in your opinion? [LB1073]

STU MILLER: Oh, I don't know. I hope we do. [LB1073]

SENATOR WHITE: Well, didn't you say that? [LB1073]

STU MILLER: Yes, it is my opinion. It's in here. I don't...I didn't lie. [LB1073]

SENATOR WHITE: No, I know that. I'm asking you to state it clearly. In your opinion, we're not going to see the Iowa problem and you expect we'll see 8 cents returned. [LB1073]

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

Revenue Committee
February 03, 2010

STU MILLER: Absolutely. Absolutely. [LB1073]

SENATOR WHITE: Thank you. [LB1073]

SENATOR DIERKS: Senator Hadley. [LB1073]

SENATOR HADLEY: Senator Dierks. Mr. Miller, thank you. I appreciate your testimony. I think it is valuable to see this kind of analysis. A quick question and maybe you can't answer this. I guess I read a lot about...I'm an accountant and a CPA, but I've heard a lot about the funny accounting that's sometimes done on films and lawsuits on what actually costs are and such as that. Would you see any kind of problem in auditing the film industry to see that they are actually making this expenditure...these expenditures? [LB1073]

STU MILLER: Well, it's not easy. I mean, it's...we have experience because of the Nebraska Advantage program. All of those expenditures and tax incentives are audited before any of it's given. And while I'm not a CPA, I'm fairly confident that the procedures that are in place and would be set up in order to make this work would be strict enough to prevent the kind of problem we're talking about. [LB1073]

SENATOR HADLEY: Okay. Thank you. [LB1073]

SENATOR PIRSCH: I appreciate your testimony here, Mr. Miller. You and Mr. Hoeger are obviously...a lot of expertise and a lot of depth in the area, and so I appreciate that. What about...and I especially appreciate your background in the Department of Economic Development. What of the question of opportunity costs? To the extent, you know, obviously we have a finite amount of funds and should the focus of the state be, first and foremost, the most bang, immediate return for the buck, or do you think that the indirect type of benefits I think that were described, three of them, the tourism in creating a creative class, should those more, I guess, longer term-type of goals come into play here? I think you've testified it would be a...for every dollar we've invested will end up on the positive side, in your opinion, \$1.08...and I haven't had a chance to kind of see your analysis. But as you know in the Department of Economic Development there are quite...and, you know, I think they probably face this in the film industry that they are a venture capital in the film industry is, you get quite a few pitches and so you're kind of looking at shepherding your finite amount of dollars in the most economically productive way. And so is this...does the film industry tend to, with the average states, I mean the states that have gone with these incentives and you said there's 42, have they shown pretty positive returns vis-a-vis other types of uses for incentives? [LB1073]

STU MILLER: The results are mixed. I think I pointed out in the short paper that it depends on where you go, it depends on who does the analysis, I mean. And the return

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

Revenue Committee
February 03, 2010

has been all the way from 14 cents on the dollar to well over \$2 on the dollar. So it all depends on how... [LB1073]

SENATOR PIRSCH: Sounds like a lot of these initial... [LB1073]

STU MILLER: Now, of course, mine is truth. (Laugh) [LB1073]

SENATOR PIRSCH: Sure. Yeah, you bet. It sounds like a lot of these were structured early on before experience was had in other states, Michigan, Iowa, and that this was taken probably structured in a different manner. In light of that, would you say that there's less risk with it? I mean, a potentially higher return there? [LB1073]

STU MILLER: No, I think there's less risk here. The opportunity cost question is a big one. And, of course, that's very global in terms of how you really go about looking at where we ought to invest tax dollars when it comes to providing incentives for development. You know, I don't think...well, I don't...never been asked to do that, so...but I don't think I can. I'm not...that's a big task. [LB1073]

SENATOR PIRSCH: Yeah. Oh, yeah. Thank you. [LB1073]

SENATOR DIERKS: Other questions for Stu? Senator Utter. [LB1073]

SENATOR UTTER: Can you just very briefly tell me what the Iowa and the Michigan problems were? I obviously missed that. I must have been taking a nap when that was on the news. [LB1073]

STU MILLER: I'm not too familiar with the Michigan situation but I am fairly aware of what went on in Iowa because I know those people. They simply didn't set up a program to go on and check on expenditures. I mean, they were...you turn in a receipt on an expenditure and it was paid back, so there was no test on whether or not, first of all, the expenditure was used in the production of films and, secondly, whether it was expended in the state. And there were cases where there definitely were expenditures which were outside the lines in both of those situations. Pretty severe. [LB1073]

SENATOR UTTER: So in that context, tells me that it takes some...that it's going to take some work to assure that that doesn't happen in Nebraska, right? [LB1073]

STU MILLER: It does and it is going on now to prevent it from happening with existing programs. [LB1073]

SENATOR UTTER: Thank you. [LB1073]

SENATOR DIERKS: Further questions? I guess not. Thank you so much, Stu. Next

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

Revenue Committee
February 03, 2010

proponent. Whenever you're ready, sir. [LB1073]

STEVE SELINE: Members of the Revenue Committee, my name is Steve Seline. I'm president of Walnut Private Equity Partners in Omaha, but I think I come before you today and I've been asked to testify today more because of my experience in the film industry. I was vice chairman of a little company called Gold Circle Films, and you probably are not familiar with that name but you might be familiar with some of our movies, most prominently, My Big Fat Greek Wedding, which was the second most successful film, independent film, ever done. As a guy who sat on the committee that made the decisions as to where to locate films, I think I've got a little experience to be able to tell you that incentives do work. For instance, My Big Fat Greek Wedding, if you watched the opening scenes in My Big Fat Greek Wedding, you see the lovely downtown Chicago and you see the...and at the end you see the pictures of Chicago and Lake Michigan and so forth and so on. The rest of the movie was shot in Toronto, not to ruin the images for you. But the incentives that Toronto gave were so much stronger than the reasons to do the business in California just made it compelling economically to go to Canada. The same thing was true for a number of other movies that we did there. White Noise was shot in Vancouver. It was a very successful horror film. Things like that work. I think one of the points I want to make is that Nebraska is in a unique situation. Right now, we have a number of people from this state that are very talented and they have become ensconced in the film industry and are in the position where they can make a decision as to where they shoot their film. They are hampered by the fact that we're one of the eight states that doesn't have incentives. If we can give them a level playing field, not asking for...I don't think we're asking for, and I know we're not asking for anything here that's out of line with what other states are giving in terms of incentives. But if we can give them a level playing field, we can make a significant inroad into getting that industry producing jobs here in the state of Nebraska, which is what this is really about. I also wanted to address the question of the long-term aspects of this. The film industry is like anything else. If we get a critical mass and we start doing...you know, if we have a number of films that come through here, which is possible with this kind of incentive program, then we will be in a position where we will be able to have what is now a nascent industry become a larger industry, and we can get into some of the ancillary benefits that are here, which are sound studios and recording studios, things like that where we can make a huge amount of difference to the state's infrastructure and bring new business and, probably most importantly, new jobs to the state of Nebraska, which I think is what we're all about right now. So with that, I'll just say thank you and open myself up for questions. [LB1073]

SENATOR DIERKS: Did you spell your name for us? [LB1073]

STEVE SELINE: Sure. S-e-l-i-n-e. Sorry. [LB1073]

SENATOR DIERKS: Thank you. Questions? I guess not. Thanks so much for coming.

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

Revenue Committee
February 03, 2010

Next proponent, please. Go right ahead. [LB1073]

RACHEL JACOBSON: Hi, members of the Revenue Committee. I am Rachel Jacobson, J-a-c-o-b-s-o-n. I'm the director of Film Streams. We're a nonprofit cinema in Omaha. We're an organization dedicated to the presentation and discussion of film as an art form. And film really is an important art form. It is the great American art form. And Nebraska has been fortunate enough to experience an amazing cultural renaissance recently, and in order to maintain and build upon our incredible momentum, we really need to enact policies and support art and artists. As a representative of Film Streams and as a representative of the larger cultural community, I strongly support LB1073 and would be happy to answer any questions. [LB1073]

SENATOR DIERKS: Thank you. Questions? I guess not. Thank you so much. Other proponents? [LB1073]

KIRSTEN CASE PENROD: Good afternoon. My name is Kirsten Case Penrod, K-i-r-s-t-e-n C-a-s-e P-e-n-r-o-d, and I'm here to testify in support of LB1073 on behalf of the Greater Omaha Chamber of Commerce, as well as the Greater Omaha Young Professionals Organization. We've already heard today a lot of discussion about brain drain and how our communities are addressing this. And our Young Professionals Organization was created specifically to find innovative solutions around recruitment and retention of young people to our communities. And Nebraska is fortunate to have organizations like ours across the state. I believe that this legislation plays an important role as we're looking at recruitment and retention of young and creative talent to our state. Every day I have the opportunity to work not only with young professionals who live here and outside of our community, but also companies. And we send the message that you can have it all here in Nebraska. You can have a great quality of life; you can have access to wonderful education for your family; and that you can do anything here. You can have a...you can build a great career here. But unfortunately I don't know that that's necessarily true when it comes to our film industry. Right now, today, just not too long ago children across...or in Omaha, specifically, were able to go to school at magnet schools where they are able to study around the arts and get excited about that field. But right now, it's not a reality for them to actually stay in our state in the future. They will have to look for careers elsewhere. Right now, it makes little economic sense for film projects to be done in Nebraska when they can be completed elsewhere for less cost. And often, when we're thinking about the film industry, we're thinking about movie stars: Clint Eastwood, George Clooney, we're thinking of the Gold Stars out in Hollywood. And it's more than just actors and directors. We can't forget the creatives that are involved in this, from set designers, editors, designers, lighting, etcetera. So due to technology, most of us have the opportunity to be able to choose to live in Nebraska but work for companies all around the world, but you can't do that in the film industry. You can't be a light...do light or set design or costumes for productions that are happening somewhere else. So as we're trying to build and grow our creative class and

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

Revenue Committee
February 03, 2010

to be innovative in the types of industries that we can provide to our young people today, and also in the future, it's really important that we are able to provide this opportunity as well. The other piece that hasn't been talked about yet is that there are many companies that are, right now, currently leaving our state to get many projects done, from training videos, commercials, and other things that they could do right here. We already have some of that talent here but it's not worth it to them right now to stay in their own state to get that work done. So right there we already have an area that we could build and grow. In closing, I understand that there is a significant fiscal note attached to this bill and this state has limited financial resources, but as you are thinking about this, I hope that you will consider LB1073 as something that could bring a lot of positive future opportunities to our state. I'd be happy to answer any questions that you might have. [LB1073]

SENATOR CORNETT: Seeing none, thank you. [LB1073]

KIRSTEN CASE PENROD: Thanks. [LB1073]

SENATOR CORNETT: Next proponent. May I please have the remaining proponents move forward. [LB1073]

KIM QUICK: (Exhibit 10) Members of the committee, my name is Kim Quick; that's spelled K-i-m Q-u-i-c-k. I serve as the president of Teamsters Local Union 554 in Omaha. On behalf of the Teamsters, I must voice our strong support for LB1073, the Building Nebraska's Creative Economy Act. As you know, our organization's membership contains countless talented, high-skilled professionals who thrive in the film and television industry. The film and television production industry is a high-wage, labor intensive industry that employs skilled workers like the ones that our union represents. Most importantly, a great number of them are technicians and professionals who would prefer the opportunity to work locally. As written, LB1073 is a bill that makes Nebraska a competitive option for attracting more film projects to this state. Nebraska can bring a strong work ethic to these future projects and we feel that along with the right incentives, this work ethic can become a natural selling point for film producers who are scouting locations. As a union representing thousands of workers, we are fully behind this bill and will monitor its progress with great enthusiasm through its passage. Furthermore, we want to make sure that Nebraska resident film crews, the reasonable focus of the bill. Oftentimes, when a film or commercial project comes to Nebraska, a certain percentage of the crew is brought with them from larger markets. This much can be expected and is often necessary. In the guise of promoting Nebraska jobs for Nebraska residents, we support this bill as a significant stimulus to the Nebraska film crew member market. The Teamsters support this bill and we urge Senator Cornett and the distinguished members of this committee to give this bill the proper opportunity for floor debate that it deserves. With that, I would close for any questions. [LB1073]

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

Revenue Committee
February 03, 2010

SENATOR CORNETT: Thank you. Questions from the committee? Seeing none, thank you. [LB1073]

KIM QUICK: Thank you. [LB1073]

SENATOR CORNETT: Next proponent. [LB1073]

DANA ALTMAN: Hello, Senator Cornett and the rest of the Revenue Committee. My name is Dana Altman. I own a film production company, entertainment development company in Omaha, Nebraska. In two years ago I think I was sitting at this same place talking about the same thing, and although the faces have changed that are in front of me, the issue has not. Two years ago, I, you know, was one day after my first day of principal on a film where we're going to spend \$1.2 million in the state from three investors from New York City. That was not our money. That was all theirs and we spent it all here. Two years ago, I didn't think that one year later I would be spending another \$250,000 in the state on the same project, but yet I did. I make a living. I have six kids and I consistently work and am only employed by the film industry and I do that out of Omaha, Nebraska. I am a rarity and I think I was looking around at the crowd behind me and I think I've employed just about half of the audience out there. (Laughter) But this isn't necessarily about me because I don't have as much to gain as what the state does when it comes to tax incentives and the processes that we've been fighting for nearly eight years. Really, when we look at it, two years ago I would have never thought that my history in Omaha would have spent us \$13 million through my company. Two years ago, when I look back...there's a whole bunch of two years ago. And what I don't want to see happen is that either two minutes or two days or two hours goes by without giving this another valuable consideration as to the value and the efforts of what the good people behind me represent and the things that you cannot see that are so valuable. You know, there was a couple things that were brought up in just the discussions prior and that is, you know, when we look at independent auditors and some of the questions that you have, this is a business. We're in the film business. This isn't...there are areas for creative art but this is a business. So there's certainly ways to go about independent auditors being paid for by productions. Any production company would do that to provide that issue to you by an independent auditor and you could see the values of that. That's always, you know, something that's out there. You know, there's here today and gone tomorrow was an issue. I'm not gone tomorrow. I came out here in 1992. I've got six kids and I haven't left yet, and I have 14,000 square foot of dedicated space in Omaha, Nebraska, that all it does is film production. So with that, I'm available for any questions. [LB1073]

SENATOR CORNETT: Seeing none, thank you. Next proponent. [LB1073]

MIKE MONTGOMERY: My name is Mike Montgomery, M-o-n-t-g-o-m-e-r-y, here as a proponent for LB1073. I'm a little nervous, excuse me. I just recently won the 2009

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

Revenue Committee
February 03, 2010

Coca-Cola Refreshing Filmmaker's Award. I live in Los Angeles and I'm here to present my opinion on the talent pool out on the coast. I received some training from Dana Altman when I first started working in this industry. And like many other people from Nebraska, I moved to Los Angeles to further my dream towards working in the film industry. I currently own and operate Twilight Productions LLC, for which I employ three Nebraskans as an editor, a colorist, and a visual effects designer, all who received their training here in Lincoln and moved to California. I think that it's an economically viable art form. It employs writers. It employs musicians. It employs, again, editors, set designers, grips, and electricians. And it's an incentive program that will help to keep people like me from having to go live in Los Angeles to pursue their dreams. At USC, alone, there have been four projects about Nebraska. I can't say the same for Iowa or for Michigan or for any other state for that matter. Los Angeles also has a program out there called the Nebraska Coast Connection that has a membership of perhaps 250, 300 people currently. They're involved and all of these people moved to Los Angeles to pursue their dreams elsewhere from Nebraska. So I think that in the long run, in the future, if Nebraska were able to set up a system that could retain the talented youth to work here, to write their scripts and to be able to put them into production, you know, high philosophy here, the reward would be incredible. It's expensive to live out there. You know, it's a slow start. Nebraska, as far as I know, doesn't have much studio space or green screen space, so it's contingent to attract productions here on just existing locations, aside from tax incentives. So I think that whatever happens here, if this is going to work, there would need to be some press out there perhaps from the Nebraska Film Association advertising Nebraska as a, you know, whatever they determine is necessary, I suppose. But there would be some value in that and I guess that's all I have to say. It is sort of spur of the moment. Thanks. [LB1073]

SENATOR CORNETT: Thank you, Mike. Questions from the committee? Senator White. [LB1073]

SENATOR WHITE: Mike, would you do business in Nebraska if this incentive bill was passed? I mean... [LB1073]

MIKE MONTGOMERY: I would, actually. I wrote a script to take place here and the budget was \$60,000. At the end of the day, it's just...I have my career set up in Los Angeles and to fly them all out here and to put them up in hotels just did not make economic sense. [LB1073]

SENATOR WHITE: If this was in place, would you consider on larger projects, things like that, doing that? [LB1073]

MIKE MONTGOMERY: If the tax incentive was in place, along with a crew, you know, a below-the-line crew here in Nebraska that I would trust to be able to handle the production well, then yes, definitely. And I think that there are many more people like

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

Revenue Committee
February 03, 2010

myself. The studio system is, in my opinion, on its way out. MGM has collapsed. Sony is in trouble. The studios are going towards "tent pole" movies instead of...well, that's a whole other issue. But the rise of independent films is up and up. And with an incentive such as this, you would be able to get the creative people from Nebraska. You would incite in them the notion to create Nebraska-based art forms. And I guess that's all I have to say, so. [LB1073]

SENATOR WHITE: Thank you. [LB1073]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB1073]

MIKE MONTGOMERY: Okay. Thanks. [LB1073]

SENATOR CORNETT: Next proponent? Are there any further proponents? Are there any opponents? Is there anyone here to testify in a neutral capacity? That closes the hearing...oh, pardon me. Senator Mello, you are recognized to close. I forgot you were over there. [LB1073]

SENATOR MELLO: I'll be very brief. Chairwoman Cornett and members of the Revenue Committee, I don't want to take up too much time, but I think just a gentle reminder from last year. There was a lot of questions revolving around the tax incentive bill last year that some of the testifiers here today worked with me and my office to make the changes that you asked for to ensure that it was revenue neutral; that we did provide a cost-benefit analysis to show this incentive will work and it will generate more revenue than it would cost, as well as exploring the opportunities to expand our creative class of Nebraskans to keep our young Nebraskans staying here, living here, paying taxes here, instead of moving to New York or California. So I encourage the committee to consider LB1073. I'm more than willing to work with the committee on any potential amendments to ensure that we can bring that fiscal note down as much as humanly possible because I think LB1073, like other good bills out there that this committee will consider, will help create jobs and help stimulate our economy, not just in the short term but for the long term. Thank you, Chairwoman. [LB1073]

SENATOR DIERKS: Questions for Heath? Guess that will close it. Thanks, Heath. [LB1073]

SENATOR MELLO: Thank you.

SENATOR DIERKS: Senator Cornett to open on LB1081, please. Will you please move outside? Ladies and gentlemen, would you please take your conversation outside? Ladies and gentlemen, would you please take your conversation outside? Think they heard me?

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

Revenue Committee
February 03, 2010

SENATOR HADLEY: I did. [LB1081]

SENATOR DIERKS: (Recorder malfunction)...started on this next bill. Senator Cornett, whenever you're ready. [LB1081]

SENATOR CORNETT: Good afternoon, Vice Chairman Dierks and members of the Revenue Committee. My name is Abbie Cornett and I represent the 45th Legislative District. I appear before you today to introduce LB1081. It is the intent of LB1081 to provide job training incentives and tax incentives under the Nebraska Rural Advantage Act to companies who employ teleworkers who work in their homes. LB1081 would be the next step toward recognizing the enormous benefit to Nebraska citizens of teleworkers. This legislation presents an overdue recognition of the realities of job creation in rural Nebraska. Historically, this body has structured incentives around the goal of attracting and retaining companies which will invest at least a threshold amount of jobs, capital investment, or both. These programs, such as LB775 and LB312, have been successful throughout Nebraska. In fact, one of the companies that supports LB1081 has relied upon LB775 to build a world-class business with thousands of employees in Omaha. The fact is, however, that these programs cannot be expected to address all of the economic development needs of our state. The population, demographics, economic certainties in certain areas simply do not support the capital or job threshold requirements of these programs. This legislation recognizes the demographic and economic realities. It would allow a company that employs teleworkers in their home and trains those teleworkers to qualify for benefits, both under our tax credits and under our job training program. It would not require capital investment, however, it does require an investment in our citizens. A Nebraska company who you will hear from today already employs home teleworkers through our state. Over 800 citizens from across the state worked from their homes in 2009 this company alone...from this company...for this company alone. Pardon me. West Corporation is a Nebraska company. They are headquartered in Nebraska. They were founded in Nebraska by Nebraskans. West has indicated they want to employ more Nebraskans throughout our state. West competes with the companies who hire teleworkers in India, Mexico, and the Philippines. Our citizens must also be able to compete. This legislation is designed to train our people for this world market. This legislation will provide an almost immediate impact on families and towns in our state. I am assured that if we pass LB1081, and particularly the job training component, it will mean within the next 12 months over 1,200 people will be employed. People in towns throughout Nebraska will be hired. These positions will pay, on an average, over \$8 per hour and agents may have the opportunity to earn \$12 to \$14 per hour based on seasonal demand. Not only will these jobs support our communities, they will support our families and our way of life. Mothers can be at home when their children go and return from school. Farmers will be able to work in the fields and ranches and return in the evenings to work from their home. The disabled will have jobs come to them. The

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

Revenue Committee
February 03, 2010

cost of gas and the long drive to the nearest town will no longer limit the opportunities of these families. Paychecks that are earned by a mom in Ainsworth or by a rancher in Burwell will be spent right there in their local grocery store, church, restaurant, and hardware store. This, my fellow members of the Revenue Committee, is the reason I agreed to carry this legislation. There are those who will follow me today in testimony that will explain to the committee how these positions can be almost immediately opened up in Nebraska, and that the list of qualified applicants for these positions in Nebraska exceeds 1,000 individuals. Once you have heard their story and the specifics of these positions, I believe you will join me in supporting the advancement of LB1081 to General File so Nebraska can be a leader in supporting the people and technology that will fuel our rural economy. I would be happy to answer any questions for you but I have to say, Senator Adams, your school days just came out. I could see you clearing a hallway. (Laugh) [LB1081]

SENATOR ADAMS: That's right. [LB1081]

SENATOR HADLEY: He did. [LB1081]

SENATOR ADAMS: I didn't shake them down but I was close. [LB1081]

SENATOR CORNETT: I was going to say, I was just smiling as you got up and I'm like, oh, they're going to go away now. (Laugh) [LB1081]

SENATOR DIERKS: Well, you did well, Abbie. You had a lot of competition there. Any questions for Senator Cornett? [LB1081]

SENATOR CORNETT: Just something anecdotally really quickly: When I was in a meeting with West earlier today, they mentioned that one of their clients or one of the people they serve is ProFlowers, I believe is the name, so I had to order flowers for someone and I thought out of all of them I'd go see what it was like since I had to order some anyway. And it worked very efficiently. The only thing that was kind of cute, in the background I could hear a child crying and a dog barking. (Laughter) [LB1081]

SENATOR UTTER: I haven't gotten them yet, Abbie. [LB1081]

SENATOR CORNETT: Pardon me? [LB1081]

SENATOR UTTER: I haven't gotten the flowers yet. [LB1081]

SENATOR HADLEY: I did. [LB1081]

SENATOR CORNETT: Oh, that's...they're not supposed to be here until tomorrow. [LB1081]

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

Revenue Committee
February 03, 2010

SENATOR HADLEY: Senator Utter, I got them. [LB1081]

SENATOR UTTER: Oh. [LB1081]

SENATOR CORNETT: Go ahead. [LB1081]

SENATOR DIERKS: Senator Louden has a question. [LB1081]

SENATOR LOUDEN: Yeah, Senator Cornett, on this, an income tax credit or a refund of state sales tax, now that's just the state sales tax or how about some of these places because we're running across this now that some of the towns have a 1.5 percent sales tax and some of that gets refunded too. Is that... [LB1081]

SENATOR CORNETT: That is something that I was looking at earlier and I'm willing to work with the committee on, because I know some of the issues you're talking about. [LB1081]

SENATOR LOUDEN: Okay. That's what I was wondering about. [LB1081]

SENATOR DIERKS: Any other questions? Thanks, Abbie. [LB1081]

SENATOR CORNETT: And, gentlemen, in the interest of time, I will go ahead and waive closing now. [LB1081]

SENATOR DIERKS: Okay. Thank you. Proponents, please, for LB1081. [LB1081]

TOM BARKER: Thank you, members of the committee, for taking the time to learn about this opportunity. I'm Tom Barker, chairman of the board, chief executive officer of West Corporation and a West employee for over 18 years. West Corporation is a company with substantially more than \$2 billion of revenue, founded in Omaha in 1986, approximately 44,000 employees throughout the world. We compete throughout the world. We are involved in managing customer service, largest conference call company in the world, large notification alerts, 911, but a big part of the challenge we face every day is to compete with call center solutions provided in India, the Philippines, Eastern Europe, Mexico, and the Caribbean. West at Home is a program that was designed in 2001 to drive a very high-quality product and meet an aggressive and attractive price point, halfway between a domestic contact center and an offshore contact center. The program has been extraordinarily successful. This year, 2010, West Corporation expects to hire over 19,000 work-at-home agents. We already have applications for these jobs of over 80,000. About 1,000 applicants in the last six months are Nebraska residents. If I go back 12 months, it's about 1,750. These are jobs that are really important to the applicants. They provide flexibility and an opportunity to drive payroll

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

Revenue Committee
February 03, 2010

and revenue and disposable income for the people that need it most. If we get help from the state, we not only expect to hire these people but we would expect to move people from Nebraska to the top of the queue. It is with...we certainly expect that with the applications that we have currently of Nebraska residents that we would be able to begin offering jobs immediately after the passage of LB1081 and we believe that within six months we would have the opportunity to have extended an offer to all existing Nebraska qualified residents. This would drive meaningful payroll and benefits to the state. Approximately \$1 spent on training nets approximately \$10 in payroll over the next 12 to 18 months. A million dollar expenditure would result in over \$10 million driven to people and parts of the state that really need it, and it can happen now. You're going to hear from Mr. Rod Bennett, a 19-year West executive that was instrumental in launching this program in 2001. You will also hear from Mary Wolf, one of our West at Home agents in Lincoln who can give you firsthand experience and input into the training, the program, and the impact it's had on her. Thank you very much for the consideration that you've extended us. If you have any questions, I'd be happy to take them. [LB1081]

SENATOR DIERKS: Questions for Tom? Senator Hadley. [LB1081]

SENATOR HADLEY: Senator Dierks. Thank you for coming here. A quick question: From reading it, it's counties with 25,000 inhabitants or fewer. I guess I find that an interesting number because that eliminates some, what I call, rural counties in Nebraska. It would eliminate Buffalo County,... [LB1081]

TOM BARKER: And rural parts of other counties, correct. [LB1081]

SENATOR HADLEY: ...Hall County, Adams County, and such as that. So I guess maybe that's something we can talk about as time goes on. [LB1081]

TOM BARKER: We would love to work with the committee. It would be our intent to offer the rural and most needy parts of the state opportunity first, but I would like to move as quickly as possible to the other portions of the state where we've got applicants, qualified applicants, and bring those jobs to Nebraska. They're going to be hired, but we'd like to hire them here. [LB1081]

SENATOR HADLEY: Thank you. [LB1081]

SENATOR DIERKS: Other questions? Senator White. [LB1081]

SENATOR WHITE: Thank you for coming. [LB1081]

TOM BARKER: Sure. [LB1081]

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

Revenue Committee
February 03, 2010

SENATOR WHITE: I enjoyed my visit to West and one of the things that I inquired I'd like you to get to restate on the record because it's important to me. West has a history, no violations of minimum wage. Your people at least make minimum wage and you have had good, safe working conditions, they're in their home, things like that,... [LB1081]

TOM BARKER: That is correct. [LB1081]

SENATOR WHITE: ...none of those kind of histories or problems that we need to worry about. Is that fair? [LB1081]

TOM BARKER: Correct. This is a labor-intensive company. We understand that our agents are a vital resource that we work and extensively invest in and train. To my knowledge, we have zero labor issues right now. [LB1081]

SENATOR WHITE: Thank you. [LB1081]

SENATOR DIERKS: Senator Pirsch. [LB1081]

SENATOR PIRSCH: No. No, no. No questions. Thank you, though. [LB1081]

SENATOR DIERKS: Any other questions of Tom? I might ask you, Tom, in just a few words, what is the nature of the job that you're offering, I mean as far as...I know it's...I know it's in telecommunications, but what are they actually doing? [LB1081]

TOM BARKER: No, that's a really good question, something I should point out. Our clients are credit card-issuing banks, phone companies, pharmaceutical companies, and consumer oriented companies. The agents will provide customer service, sometimes sales, and/or troubleshooting technical assistance. But these are all customer initiated calls, so this is not outbound, this is not us initiating a contact to a home. This is us being the recipient of a call, trying to solve a problem or answer a question for a consumer. [LB1081]

SENATOR DIERKS: Thank you. Any other questions for Tom? Oh, Senator White. [LB1081]

SENATOR WHITE: I have one more, "Cap," that's important to some of the rural senators. We talked about accessibility. You need a broadband and... [LB1081]

TOM BARKER: Yes. [LB1081]

SENATOR WHITE: ...can you give the senators here how much of Nebraska geographically could be eligible if we could do that in terms of having the right kind of

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

Revenue Committee
February 03, 2010

equipment in their home? [LB1081]

TOM BARKER: We've looked into this extensively. We believe there's one part of the state that does not have the broadband access we require. Dave Mussman, could you...? [LB1081]

DAVE MUSSMAN: Banner County. It's in Banner. [LB1081]

SENATOR WHITE: So all other counties... [LB1081]

TOM BARKER: All other counties appear to have the exact infrastructure that we need. [LB1081]

SENATOR WHITE: Thank you. [LB1081]

SENATOR DIERKS: Let the record show that that was Banner County, Erma. [LB1081]

SENATOR HADLEY: I thought it was Douglas, but I guess I got confused. (Laugh) [LB1081]

SENATOR DIERKS: Any more questions for Tom? Thanks so much for coming, Tom. [LB1081]

TOM BARKER: Thank you, Senators. [LB1081]

SENATOR DIERKS: Next proponent, please. Go right ahead. [LB1081]

ROD BENNETT: (Exhibit 11) Good afternoon and thank you for having me. My name is Rod Bennett. I'm senior vice president with West at Home and I want to tell you a little bit about our program and would love to have questions at the end. Our program, as Tom mentioned,... [LB1081]

SENATOR DIERKS: Rod, you need to spell your name for us. [LB1081]

ROD BENNETT: Yep, sure. Rod, R-o-d, last name Bennett, B-e-n-n-e-t-t. [LB1081]

SENATOR DIERKS: Thank you. [LB1081]

ROD BENNETT: Thank you. We started our home agent program back in 2001 with a 30-agent pilot in Columbus, Nebraska, and we now today employ over 15,000 agents in 27 states with 301 virtual agents residing in Nebraska. For the past nine years we have focused on building our Work at Home technology in business, investing in our country and our state. While many others were primarily focusing on creating jobs offshore, we

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

Revenue Committee
February 03, 2010

were creating over 15,000 onshore. January is historically a slow month for us, yet we created 500 new jobs and our 2010 hiring plans call for creating over 19,000 new jobs. Our hiring pipeline is extremely strong. We currently have over 80,000 applicants who are tested, prequalified, and who are waiting for these 19,000 jobs. Over 880 are waiting in Nebraska, and we've had as many as over 1,700 waiting for jobs in Nebraska. We have a very unique business model in the call center space in that we hire, train, and operate 100 percent virtually from our employee homes. Why is this important? Because it's a lifesaver for people like Carolyn DeBaets of Burwell, Nebraska, who provided this testimonial. She said, West at home has been a Godsend to me. As our expenses exceeded our income, my husband is blind and I cannot get...he cannot get work in our small town. Working for West at Home, I do not have the expenses associated with commuting. Or Carol DeBord of Leigh, Nebraska, states this: I am able to work at home rather than having to pay for gas or buy clothes for a job outside of the house. This allows me to help my husband earn income for the family at a time when his hours and his pay are getting cut. Employees like these mentioned above make our business a success. In order to be a successful applicant of West at Home, you must be 18 years or older, be willing to work a minimum of 20 hours, pass our hiring assessments, and pass a background check. You must have a high school education or equivalent, and the applicant must have a PC with Internet capabilities, as well as have a land line to receive incoming phone calls. The applicant must pass an interview process and, in some cases, may be required to take a drug test. Once the applicant is qualified, they are placed into a holding pattern for an available position. We have positions to fit all qualifications. These positions consist of customer service positions with major companies like Citi Bank, Citi Mortgage, General Electric, Toys R Us, Qwest Communications, just to name a few. We also have open sales positions with name brands like Eddie Bauer, AT&T, SIRIUS XM satellite, Shop NBC, HSN, and more. We have many that qualify for technical support positions with companies like Direct Television, ComData, or Dominion Electric. Why do so many want to work for West at Home? First, because it's 100 percent virtual. It's flexible. Aleta Ambler of Anselmo, Nebraska, told us this: The best thing about working at home is not having to drive and spend money on a vehicle and gas, etcetera, especially when the closest city to me of any size is 30 miles away. This program is also extremely flexible. We provide scheduling on demand which allows our employees to work when they are available. Most do not have set schedules. They choose and pick up hours at their convenience. It also provides employment for a wide range of people, from positions that require little to no experience to those that require multiple years of experience. Pay varies on the skill set and ranges from \$7.25 an hour to over \$10 an hour, with premium time and seasonable opportunities that often pay \$14 per hour. This model also supports the green initiative. In 2007 alone, by having work-at-home employees with no commute, West saved the environment from an estimated 17,000 metric tons of air pollution, we reduced gasoline consumption by more than 2 million gallons, and saved approximately \$22.9 million in commuting expenses. These are just a few benefits of the West at Home program. I'd love to answer any questions that you may have and, after I do so,

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

Revenue Committee
February 03, 2010

I'll introduce Mary Wolf, and she is a primary example of the type of agent that we hire here at West at Home. [LB1081]

SENATOR DIERKS: Thanks, Rod. [LB1081]

ROD BENNETT: You bet. [LB1081]

SENATOR DIERKS: Questions? Senator Hadley. [LB1081]

SENATOR HADLEY: Senator Dierks, thank you. And, Rod, just a quick question. In looking at this, do you have more applicants now than you have open positions to fill? [LB1081]

ROD BENNETT: We do. We have four times. [LB1081]

SENATOR HADLEY: Okay. So is the purpose of this bill then to be sure that those in the future the applicants would be hired, hopefully the positions would be filled by people from Nebraska versus primarily overseas or other states? [LB1081]

ROD BENNETT: Other states. So we have 27 states and our goal is to hire them in Nebraska first, to prioritize them in that pool of 81,000 that we have. So what we would do is we would move the ones that are on what we call "qualified on hold" up into priority. The reason why we don't do that today is because of the various skill sets that these individuals have across 27 states. There are many that have education levels that are higher than others. So it's very...not that the Nebraskans wouldn't do a good job. It's just our hiring criteria is based off that. [LB1081]

SENATOR HADLEY: Okay. Thank you. [LB1081]

ROD BENNETT: You bet. [LB1081]

SENATOR DIERKS: Other questions? Suppose that my niece, who knows little about...and I don't have one like that but suppose that she knew nothing about computers. What would she have to do to qualify for a job? [LB1081]

ROD BENNETT: She would have to have some computer background. She would have to be able to navigate through an application and be able to process a test on-line. If she had very little computer skills but she could make it through that, we have positions and training that would walk her through all of that, so it's computer-based training. She could get into that training on her computer and walk through it. It's very easy. She would be qualified and it may be a lower tier client that we put her on, like a receptionist client where they're just answering incoming phone calls with very little computer skills. [LB1081]

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

Revenue Committee
February 03, 2010

SENATOR DIERKS: Now is this position largely daytime work, nighttime work, both? [LB1081]

ROD BENNETT: Both day and evening and we do have graveyard opportunities as well. So it's 24 hours a day. [LB1081]

SENATOR DIERKS: Thank you. [LB1081]

ROD BENNETT: And what we tend to do is push the employees based on a question that we ask them up-front, is where would you prefer to work, and then we push them to the experienced, the clients that they have the experience for, that they would work towards those hours. So it's very effective for both in that we get them when we need them and they have hours available when they want to work. [LB1081]

SENATOR DIERKS: I do have some nieces but they're better at computers than I am. Any other questions for Rod? I guess that does it. [LB1081]

ROD BENNETT: Thank you. [LB1081]

SENATOR DIERKS: Thank's so much for coming. Thanks for your patience and waiting all day. [LB1081]

ROD BENNETT: No problem. [LB1081]

MARY WOLF: Hello. [LB1081]

SENATOR DIERKS: Hello. Whenever you're ready to go, we need your name and you're going to have to spell it for us. [LB1081]

MARY WOLF: My name is Mary, M-a-r-y, Wolf, W-o-l-f. [LB1081]

SENATOR DIERKS: O-l-f, yeah. [LB1081]

MARY WOLF: W-o-l-f. Well, I thank you for letting me speak here as well because I don't know what I would do if I wasn't working for West. I had a retail job before this. I had surgery on my foot and I was not able to go back to my job. My husband is a firefighter here in town and we need that extra income, and so we were kind of...I was kind of stuck. And so when I saw this job position opened up, I was thrilled. It was everything I could imagine it. I can set my own hours. I have to work 20 hours a week. I can work in the morning, I can work in the afternoon, I can work at night, I can work on weekends. If something comes up, I can change my schedule. I can work it around my family, which is very, very important for me since my husband isn't there all the time. So

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

Revenue Committee
February 03, 2010

I just...I think to get this in Nebraska would just be incredible to have people that have the little kids, that have to work around their schedules, that can't afford day care but still need the money to buy groceries. You can do this. You can bring in a little bit of money, you can bring in a lot of money, depending on how much you want to work. So I believe in my heart that this is a very good thing to do and I'm thrilled that I'm able to do it.
[LB1081]

SENATOR DIERKS: Thanks so much, Mary? Questions for Ms. Wolf? I think you got off scot-free. (Laughter) Any other proponents, please? Further proponents for LB1081? Does anyone oppose LB1081? Any opposition? What about someone in the neutral position? I think we're through. And Senator Cornett waives closing and that closes the hearings for the day, and I thank you all very much. [LB1081]