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Health and Human Services Committee
February 17, 2010

[LB941 LB1005 LB1038]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, February 17, 2010, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1038, LB941, and LB1005. Senators present: Tim Gay, Chairperson; Kathy Campbell; Mike Gloor; Gwen Howard; Arnie Stuthman; and Norman Wallman. Senators absent: Dave Pankonin. [LB1038]

SENATOR GAY: All right, we're going to get started. Hopefully, Senator Fulton is making his way. I don't see him. We'll get started. I'll do some housecleaning here. If you have a cell phone, if you could silence that cell phone, I'd appreciate it. We have a time limit here in our committee. Today there's only three bills, but usually there's about five, six, and then that just allows for the people at the end of the day to have the same hearing and attention as the beginning of the day. So what we do, the introducer can take as long as they need to introduce their bill, and then if you are going to testify as a proponent or an opponent or neutral, you get five minutes. And then if there are any questions from the committee, that doesn't count against you. After you're done, stick around for questions. There's a green light. It turns yellow at four minutes. And when that red light comes on at five minutes, your time is pretty much up and you need to wrap it up if you could. Then we'll see if there's any questions for you. Try not to be repetitive. If you can add something new or if you just want to hand out a statement, as well, or be a proponent or opponent and not testify, you can give a testifier's sheet which is on both sides, to the clerk. If you're going to come up and you have that testifier's sheet filled out before you get up here, that also saves some time, so appreciate that. Like I say, we have three bills. And is Fulton here, Senator Fulton here? He's on his way? Okay. We will get started with that and then LB1038, LB941, and LB1005. I'm Senator Tim Gay from Papillion-La Vista. We'll introduce ourselves from my right. []

MICHELLE CHAFFEE: I'm Michelle Chaffee, legal counsel. []

SENATOR GLOOR: I'm Mike Gloor, the senator from District 35, Grand Island. []

SENATOR CAMPBELL: I'm Kathy Campbell, senator from District 25, east Lincoln and north Lancaster County. []

SENATOR GAY: You can have a drum roll for Senator Stuthman. []

SENATOR STUTHMAN: I'm Senator Stuthman from District 22, Columbus. []

SENATOR WALLMAN: Senator Wallman, District 30, which is south of here to the Kansas border, Gage County, and part of Lancaster. []

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ERIN MACK: Erin Mack, committee clerk. []

SENATOR GAY: And we have two pages to help in any way if you need anything handed out. They will help you any way as well. Senator Dave Pankonin is a member of the committee. He is absent today. He had another commitment. And Senator Gwen Howard, I think we heard she may be joining us later. So we'll get started. Senator Fulton is here to introduce LB1038. []

SENATOR FULTON: Ready? []

SENATOR GAY: Yep. []

SENATOR FULTON: Thank you, Mr. Chairman and members of the committee. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n. I represent District 29, and I bring to you LB1038. I introduce LB1038 to further our public policy of providing greater transparency and patient awareness regarding billing for medical procedures. Over the past several sessions I introduced legislation that better informed patients about the nature and cost of pathology services, and prevented physicians from engaging in the unethical practice of marking up medical bills. And we ultimately passed, with the help of this committee, that legislation last year in the form of LB394. LB1038 originated through contact by a constituent whose family underwent tremendous hardship when a costly and perhaps unnecessary diagnostic genetic test was ordered for their child. The family gave no specific consent to such a test being performed, nor were they informed of the substantial cost of the test which was not covered by their health insurance, and ended up in a protracted battle with both their insurance and the hospital. LB1038 expands existing statute regarding genetic testing to require specific informed consent for both predictive genetic testing and diagnostic genetic testing, and for such informed consent to include the estimated cost of performing such testing. According to the National Center for Biotechnology Information, there are over 600 labs performing genetic testing for over 1,700 different diseases, roughly double that of a decade ago. The prevalence of genetic testing, both for the purpose of confirming a diagnosis and for the purpose of predicting susceptibility of disease, will only continue to advance over time; whereas, the risk inherent to the patient's privacy in a genetic test used to predict the future onset of disease may differ from that of a genetic test used to diagnose the condition of a patient presenting clinical symptoms. It does not necessarily follow that a patient who undergoes diagnostic genetic testing ought to be faced with the prospect of being left in the dark as to the purpose, effectiveness, implications, or even the cost of such testing. In fact, the Michigan Department of Community Health, the state from whose statutes Section 71-551 is derived, publicizes that patients ought, quote, to ask about the cost of the test and whether it is covered by insurance, end quote, for the cost can range from a few hundred to a few thousand dollars. The practice of informing patients of the costs and coverage of diagnostic genetic testing has already begun in one Nebraska hospital as a result of the case that initially prompted this bill. It stands to

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reason that providing information up front to patients and their families regarding the cost and nature of testing that many patients are likely not to fully comprehend, is in the best interest of both the patient and the physician. Concluding, the principal aim of LB1038 is the promotion of a public policy that better informs patients regarding the nature and cost of the care and treatment they receive. The increased evidence of both predictive and diagnostic genetic testing behooves us to examine how better informed patients may affect the quality and cost of healthcare in our state. If there are any questions, I can try to answer. [LB1038]

SENATOR GAY: Thank you, Senator Fulton. Any questions? Senator Stuthman. [LB1038]

SENATOR STUTHMAN: Thank you, Senator Gay. Senator Fulton, does this deal with only the permission of genetic testing? [LB1038]

SENATOR FULTON: Well, my bill specifically, yes. But the statute had already...we're adding genetic testing to that of predictive genetic testing. So, answer your question? [LB1038]

SENATOR STUTHMAN: Well, my question is, is, you know, any testing that a patient...that a physician is going to do on a patient, do they all have to be approved or can... [LB1038]

SENATOR FULTON: Okay. No, this is just with respect to genetic testing. And by implementing, in the green copy here, interjecting genetic tests, we're talking about diagnostic genetic testing as opposed to predictive genetic testing. But this is not encompassing of all types of testing. We're talking just about genetic testing and that already exists in the statute. [LB1038]

SENATOR STUTHMAN: Okay. Thank you. [LB1038]

SENATOR GAY: Senator Gloor. [LB1038]

SENATOR GLOOR: Thank you, Chairman Gay, and welcome to the Health and Human Services Committee, Senator Fulton. I'm not a clinician. I've had friends that are a clinician. I didn't stay at a Holiday Inn Express or anything of those (laughter)...but the knowledge I have has me thinking about this in the context of a clinician, a physician who might be in a situation of having to make very quick decisions that are in the best interest of the patient in a nursery or in a trauma center or a surgeon who's got a patient that's actually in surgery and is, you know, he's been opened up and laying on the table and they've got to make quick decisions, and will order any number of tests sometimes that need to be ordered in the best interest of that patient and decisions about that patient. Why is this specific test...and some of those tests could be far more expensive

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than what we're talking about with panel of some of these tests, at least from what I remember pricing. Why is this...why should this be different and why would it not be, in fact, a real hamper to quality care for some of the clinicians who are providing the services? [LB1038]

SENATOR FULTON: Right. Well, this first question, it seems that this would be different because there is...it's treated differently in the statute now. Genetic testing has a specific place in the statute now. Would this hamper doctors' abilities going forward? I don't think so. There could be...and I understand that there are some concerns about I think it's going to be lines 7-10 on page 3 of the bill as to how that's going to move forward; how that would cause doctors to move forward. But this specific type of test, there is...this already is in the statute. So if you...in the green copy of the bill you can see that we're adding "genetic test" to the term "predictive genetic test." So it's treated differently now. And then I say...and then...so that's answer to one, answer to two, and then I'll also interject my own, that these can be quite costly. Yeah. [LB1038]

SENATOR GLOOR: Okay. Although putting on my old hat of healthcare administrator on, this is a two-edged sword sometimes. If you don't do some of the tests, if you don't order it and the outcome for the patient is bad, they...you hate to find yourself in a witness seat saying we didn't order the test because we felt it was important to get financial information and so we delayed treatment. That usually doesn't fly well in the court of public opinion as well as malpractice courts. [LB1038]

SENATOR FULTON: Right. Right. Yeah, I understand. There's...we have to bear in mind to give the, you know, the competent medical authority the ability to act. Really what I'm after here, my intention in bringing this bill forward, and I think the language of the bill encapsulates that, but if it doesn't then I would trust the committee could help me find a way to encapsulate this intention with words is informed consent which it really isn't any different than any of the other...basically, informed consent is the backbone of what we're doing in medicine anyway. Ultimately it's a decision of the patient who's receiving the care. And that's really the philosophically the basis from which this bill springs. [LB1038]

SENATOR GLOOR: Okay. Thank you. [LB1038]

SENATOR GAY: Senator Campbell. [LB1038]

SENATOR CAMPBELL: Thank you, Senator Gay. Senator Fulton, what's the difference between genetic testing and predictive? [LB1038]

SENATOR FULTON: Well, my understanding and I will echo my friend and colleague. I am not a clinician. I don't even play one on TV. But my understanding is predictive genetic testing would be to predict the susceptibility of an individual to a given disease,

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whereas diagnostic genetic testing, which is how I tried to separate the two in my opening here, is about trying to diagnose that problem which presents itself. [LB1038]

SENATOR CAMPBELL: Okay. [LB1038]

SENATOR GAY: Any other questions? I don't see any. You going to stay around? [LB1038]

SENATOR FULTON: Yes. I don't know that I'll close but I'll stay around for a little bit. Thank you. [LB1038]

SENATOR GAY: All right. Thank you. Now we'll hear from proponents. [LB1038]

KELLIE HASZARD: Good afternoon, committee members. Take a moment to let you know this is my first time testifying. [LB1038]

SENATOR GAY: Can I interrupt you? You know what? I made a...I screwed up. You're supposed to state your name and spell it out and I didn't say that, so could you state your name and spell it out? (Laugh) My fault but. [LB1038]

KELLIE HASZARD: Okay. That tells you I'm a real newbie at this. [LB1038]

SENATOR GAY: Well, don't worry. Relax. We'll take it easy on you. [LB1038]

KELLIE HASZARD: (Exhibit 1) Okay. My name is Kellie Haszard, H-a-s-z-a-r-d. I'm a concerned citizen and mother in the state of Nebraska. I'm here not representing any group, but on behalf of Nebraska patients and parents to ask you to uphold an ethical right to know by placing it into legislative law. Senator Fulton has explained why he has brought this bill, LB1038, forward. I'd like to share our personal story so you can hear, by this example, why it is important for patients to be informed. Our son was seen by a primary doctor and then a specialist who each ran extensive blood tests and thorough exams but neither came to a conclusion regarding his nonlife-threatening case. He was referred to yet another specialist who ran additional tests and still arrived at no conclusions; though, one of the tests ran by the last specialist was a DNA test. In the laboratory, blood was drawn for that test along with other blood work ordered. We were never told any difference regarding DNA/genetic testing. We did not question it since we had never seen a blood test cost more than \$200. All blood tests were dealt with the same, so we thought. Additionally, no one checked with us regarding whether insurance would cover it and/or if we still wanted this nonessential test if it was not covered. Later in the month I checked with our insurance Web site. I was flabbergasted to see a charge for \$10,826 for the DNA test alone. Upon calling the medical institution, I was told that indeed it was not an error; that genetic testing is expensive and this particular test was at the low end of cost. Emphatically, I maintained that there was an error on

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the part of the institution to not have informed us of the cost before performing a test. I also stated that we could not afford such an expense which was not necessary. Had we been informed of the benefits or risks, costs, and what is done with the DNA afterwards, we would have never allowed our son to undergo the test. The solitary response we received from the institution on several attempts at dissolving the matter was the numerous, progressively stronger pushes for us to apply for Medicaid to pay for the facility's mistake. This infuriated us. Should taxpayers be mandated to pick up the cost of errors? Even though they admitted to us their making the mistake of not telling us beforehand, the medical facility held their unethical ground and even threatened to take the matter to collections while we were still trying to get a resolution. This could have happened at any facility. After much ongoing fighting and diligent work of influential helpers, the medical institution did finally back down, in our case. They returned payment to our insurance company. The financial matter was at last closed. For our son's circumstance, we employed therapies that are improving his situation. In the aftermath, we learned that genetics testing is not done and over when a patient gets results back. Generally, DNA is stored and later used by researchers to do a variety of experiments. In our case, this was done without knowledge or consent. Another important consideration: Should a patient or taxpayer-supported Medicaid pay astronomical fees ultimately for research they did not know would happen or give permission to? Nebraska taxpayers are the ultimate ones who suffer when an institution hides their mistakes and intimidates patients into using state aid in order not to be burdened with an out-of-reach bill that really shouldn't have been theirs to begin with. How many patients have already been coerced? Granted, if we had been on Medicaid, it would have been much easier to have just thought, well, I'm not paying for this directly so what does the cost matter; or what does it matter if the test is nonessential? This attitude is dangerous, however, because it allows abuse to become commonplace. Additionally, if this type of abuse continues, everyone's insurance rates continue to rise out of control. Insurance rates will always be linked to what companies must pay out. It is our responsibility to make sure the payment is for appropriate expenses; thereby, we do our part to control runaway costs. If patients are informed ahead of time of benefits and/or risks, they can make decisions as to whether they want to proceed. Not all tests are vital but may still be offered. If a patient were informed of full costs, they can weigh the test in their mind to see if it's worth the financial investment, whether it be through private insurance or through Medicaid. If the patients are informed ahead of time for what is done with DNA after a test, patients can make a decision as to whether to proceed with the test. Not all experiments with DNA are within ethical standards that a patient may uphold. Is it right to have a patient's DNA used without knowledge or consent? To sum it up, if you took your car into an auto mechanic you would be given an estimate of what will be done, why, and how much it costs. Yet aren't humans more important than automobiles? Do we not deserve to be given at least as much consideration to make informed decisions regarding our own care on our bodies? By this story I've hoped to show you why I approached Senator Fulton. I do not want this nightmare to happen to anyone else. Thank you. [LB1038]

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SENATOR GAY: Thank you, Kellie. Actually, professional. Right on time. (Laughter) Anyway, thank you very much. Let's see if there's any questions for you. Senator Stuthman. [LB1038]

SENATOR STUTHMAN: Thank you, Senator Gay. First of all, I want to say you did a wonderful job. [LB1038]

KELLIE HASZARD: Thank you, Senator. [LB1038]

SENATOR STUTHMAN: It's just unbelievable. You're so prepared and you did a wonderful job. You were right on time, like Senator Gay said. And what I really appreciate, and this is probably more of a comment than a question, is the fact that you as an individual are bringing what happened to you, you know, to our committee. And that speaks volumes, you know, for an issue, and I really appreciate that. So I want to thank you and we'll do what we can possibly do to try to solve this, so thank you. [LB1038]

KELLIE HASZARD: Thank you, Senator. [LB1038]

SENATOR GAY: Any other questions? I've got one for you. And I agree with Senator Stuthman, to bring this forward I think that's good citizenship. But did you hear in your...well, as you were checking these things out, have you heard other cases like this or do you think yours is unique? I mean, that's a heck of a bill. But have you heard just over the time that, oh, yeah, I've heard someone else this happened to. Do you think this is commonplace, I guess? [LB1038]

KELLIE HASZARD: At this point, I haven't specifically heard of others, but as Senator Fulton mentioned, genetic testing is becoming more available so I see the potential for it happening in the future. [LB1038]

SENATOR GAY: With those 1,700 diseases he had mentioned that they can check for and more and more? [LB1038]

KELLIE HASZARD: Yes. [LB1038]

SENATOR GAY: So preemptive is kind of...not only...well, not preemptive because it happened to you, but anything that could happen before or in the future. Any other questions? I don't see any. Thank you for sharing that. Other proponents? Are there any opponents who would like to speak on this? How many opponents are going to be speaking? Two. Anyone neutral on this issue? All right. [LB1038]

TIMOTHY GREINER: (Exhibit 2) Chairman Gay and other senators, my name is

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Timothy C. Greiner, G-r-e-i-n-e-r, and I am speaking on my own behalf today as a physician opposed to this measure. While I'm a professor in the Department of Pathology and Microbiology at the College of Medicine at the University of Nebraska Medical Center, I am not here representing the University of Nebraska today. I have served as the medical director of the Molecular Diagnostics Laboratory, DNA testing, for the Nebraska Medical Center for nearly seven years and I have 20 years' experience in molecular research and clinical DNA/RNA testing. I want patients to receive the highest quality of genetic testing from our laboratory. However, there are a number of issues that I see with this bill. First is quality of care. The bill in its current form will slow down the care of cancer patients statewide. It has been the standard of care to perform chromosome analysis on leukemias for 30 years and more recently on solid tumors. DNA tests on different cancers have been routinely performed for 20 years and the number of tests is indeed increasing each year to help doctors choose targeted therapy for patients in this era of personalized medicine. The bill, as written, now would require written informed consent before these now routine tests could be performed. These cancer assays have become the standard of care for diagnosis, treatment decisions for specific drugs, and follow-up, no differently than throat cultures, flow cytometry on leukemia, blood counts, or cancer serum proteins. Some tests must be performed within 48 hours in order to get valid results. Material for chromosome studies should be processed immediately; certainly within 24 hours. Delay in starting these tests over weekends because insurance coverage must be defined before written informed consent can be obtained would jeopardize some irretrievable specimens. Secondly, healthcare costs would go up to administer this program by physician offices, hospitals, and insurers. Large numbers of tests are now a part of this growing field in the lab. About 12,000 high complexity genetic, that is DNA or RNA, tests or genetic-related tests, in the Molecular Diagnostics Lab at the Nebraska Medical Center Hospital and some 24,000 tests in the Human Genetics Lab at Munroe-Meyer Institute would be affected this year alone. Application of the definition of genetic tests in the bill suggests that this is the tip of the iceberg of which other tests would be swept up in this requirement. Third, the standard of care would change. Standard of care has defined informed consent to include the risks and benefits of a procedure. Consent to treat, like I had to sign the other night in order to take care of my hand, usually includes agreeing to pay for the cost but does not define the insurance coverage of a procedure or test. While costs are important considerations in discussing healthcare decisions with the physician, there are better mechanisms to address the questions on cost: reviewing a charge list, meeting with a patient financial counselor in the hospital setting, or the patient can call the insurance carrier for coverage. Fourth, genetic tests should not be singled out from all other laboratory tests to require cost and insurance payment information in a written informed consent. Rather, existing consent to treatment forms already give providers authorization for necessary treatment, which is usually defined to include diagnostic services and pathology services that are deemed reasonable and necessary. Genetic testing is part of molecular pathology services. And there are other tests with equal or greater costs than the range of \$150 to a little bit over \$1,000 of most

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of the genetic tests that we offer. The purpose of the current law: the Legislature previously worked to define the appropriate special case scenario of when written informed consent should be obtained; that is, for predictive genetic testing. Diagnostic genetic testing for symptomatic patients was excluded from this requirement, and this should remain so for rapid medical care for the patient's best interest. Finally, I don't see a measurable benefit to the patient's medical care that's been identified by the changes proposed in this bill. Thank you for the opportunity to present some comments and I'll try to answer any questions that you have. [LB1038]

SENATOR GAY: Thank you, Doctor. Senator Gloor. [LB1038]

SENATOR GLOOR: Thank you, Chairman Gay. Dr. Greiner, thank you for your testimony. I think the only argument about benefit to patients' medical health might be preventing a heart attack if they saw a bill for \$10,826 for a single test. [LB1038]

TIMOTHY GREINER: I would have a heart attack, too, if I saw that. [LB1038]

SENATOR GLOOR: And all joking aside, that number strikes me as for a, and not just a DNA test, but maybe even for a series or a panel of DNA, that strikes me as a very high number. Does that number strike you as a bit challenging? I know not knowing the specifics make it difficult perhaps to answer that, but it just strikes me as an exceptionally high number. [LB1038]

TIMOTHY GREINER: I could answer that by giving you a range. The common range would be \$250 to \$750. To have tests that are above \$1,000, do they exist? Yes. They would be rare for special unique situations where maybe there's only one laboratory in the country that has the patent to the test and nobody else can do it or for studying large sequences of the DNA. So if one were looking at the...try to look at the whole human genome or very large sequences that's done very rarely, that would be very expensive. But that's not...\$10,000 does not fall in the average range of tests. [LB1038]

SENATOR GLOOR: That's what I needed to know. Okay, thank you. [LB1038]

SENATOR GAY: Any other questions? Senator Howard. [LB1038]

SENATOR HOWARD: Thank you, Chairman Gay. Well, I hope your hand is coming along. [LB1038]

TIMOTHY GREINER: I'm able to be here today. [LB1038]

SENATOR HOWARD: Well, we appreciate that. But I have to really have the same concern as Senator Gloor. I would be shocked. I think anybody would be shocked. I mean, you could buy a car for that, practically. Isn't there some negotiation or some

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discussion that goes on with insurance companies when you're faced with something like that? This may be out of your realm of expertise where you're a doctor, but it just seems very astonishing that there wouldn't be some preliminary discussion as to what people are entering into with this. [LB1038]

TIMOTHY GREINER: I can't speak to the direct conversations that occur since I work in the laboratory, but I do answer questions when they come up from people, and I'm aware from my clinical (inaudible) I work closely with hematologists and oncologists, so when the big questions come up of transplantation that might cost more than \$100,000 or specific cancer chemotherapies, certainly cost and their coverage are very important conversations that do happen. [LB1038]

SENATOR HOWARD: Thank you. [LB1038]

SENATOR GAY: Any other questions? I don't see any. Thank you, Doctor. [LB1038]

JILL HAGENKORD: (Exhibit 7) Good afternoon. This is also my first time testifying and I'm going to be a bit bold and go off script and hope for the best with this. My name is Dr. Jill Hagenkord, H-a-g-e-n-k-o-r-d. I'm a medical doctor with board certification in pathology and subspecialty training in molecular genetic pathology, and I'm an assistant professor of pathology at Creighton University and I'm representing Creighton University today and testifying in opposition of LB1038. I understand the concerns that have been raised and that the reason this bill was brought forward was to promote greater transparency in medical care. I'm completely sympathetic to that concern. My daughter was recently hospitalized and I myself was frustrated with that lack of transparency in our healthcare system. We often have to trust that the tests are ordered are medically necessary, and this may not always be true. However, this is a systemwide problem in healthcare and not something that is in any way special to DNA-based testing. And mixing...what this bill is doing is mixing now predicted genetic testing with diagnostic DNA-based testing. This is not the appropriate mechanism to address this systemwide problem in healthcare, and doing so is going to have unintended consequences of crippling the diagnostic process, particularly for cancer patients, and compromising patient care. So people have already articulated the differences between predictive testing and diagnostic testing, and I'd like to clarify one additional point. So the way the law is currently written is it includes somatic genetic testing which really means cancer cells, and that's the thing that I think most of us are concerned about, is that this is going to dramatically delay our time to initiate a diagnosis and treatment in cancer patients because of that particular phrase in the bill. What likely happened with the woman who spoke earlier and her son, is this was probably a germline condition--I'm just guessing based on the information she gave; I don't know--not a cancer situation. And based on the number that she gave on the cost of that test, I can make a pretty good bet on exactly what test that was and what company offered that test, because there are so few that meet that criteria. It is an outlier and it is also not the standard of practice by

genetic professionals, medical professionals, by myself, to order that kind of test without consenting the patient and without informing them how much it would cost and what it adds to the utility of their diagnosis. I'm not sure what happened in her situation that that did not occur. However, you know, when it does occur it would obviously be enormously frustrating. So I just wanted to stress that the language of somatic DNA-based testing, as a pathologist it's my job to give a timely diagnosis so the clinician can initiate care in these patients. And the reality of what the language of this new bill would do, the diagnostic testing on cancers is generally ordered by a pathologist. Pathologists do not have direct access to patients. We sit in our laboratory, looking under our microscope, and then we go down a tiered diagnostic algorithm which with the...the test results then determining which node, you know, we would go down from there. So there wouldn't be one consent episode that could happen, even if we had access to consent a patient. In order to give one single diagnosis, there could be up to a dozen different consenting episodes. We would not be able to do it. The oncologist, we would have to contact the oncologist. The oncologist would then contact the patient. A few weeks would go by before they could schedule them to come in for their consenting session. They would get the consent, sign the paper. It would go back to pathology. We would perform the test. We're then now at the next node in the diagnostic algorithm. And we would have to do this iteratively until we go to the end of the algorithm. This could delay the time to diagnosis from a matter of days now to a matter of months. This would obviously delay treatment of the cancer and leave the patients in this limbo of not understanding, do I have cancer, do I not have cancer; is it a cancer that's, you know, going to respond well to therapy or do I need to start to get my affairs in order? So I think these are kind of the unexpected or unforeseen consequences of the language that's been put into this bill, particularly that somatic testing, somatic DNA testing. So although, you know, I understand and am completely sympathetic that our healthcare system can be opaque and confusing, even to medical professionals when they themselves are patients, this is not a problem unique to DNA-based testing. Extraneous tests can be ordered in radiological imaging studies, which can be far more expensive than your typical DNA-based somatic tests. So I'm opposed to the language, the new language in this bill. I'm concerned that it will cripple the diagnostic process and result in the delay of potentially life-saving therapy for cancer patients. And that just changing the language in the bill is not going to begin to address the problem that was articulated for the motivation to bring this bill up. And with that, I can take any questions. [LB1038]

SENATOR GAY: Thank you. Any questions? Dr. Hagenkord, you listed this process, I think that's very helpful, on item 4 of how it works in the real world. But I guess Senator Gloor's stayed at a Holiday Inn Express, but we could probably stay for a week and not understand this (inaudible) handed out here. (Laughter) But anyway, I know it's complex work but I do think that kind of describes the situation. So there are many people involved in this. What is the turnaround then, again, on when you talked about it, it goes back and forth through several people. What is the time then that that takes? It can be as quick or as slow as the condition allows? [LB1038]

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JILL HAGENKORD: You mean to make a diagnosis in cancer? Or to make...? [LB1038]

SENATOR GAY: Well, yeah, you said...well, no, you said it would require the pathologist to talk to the treating physician and so on and so on. [LB1038]

JILL HAGENKORD: Okay. How long would this actually take us to do? [LB1038]

SENATOR GAY: Yeah, is that a day or a couple hours or...? [LB1038]

JILL HAGENKORD: Oh, no, no, no, no, if you...because there's no mechanism whatsoever in our current healthcare system for this to actually happen, so...right? So we would have to make up some way for this to happen. It would require me as a pathologist figuring out who the oncologist is, calling the oncologist, waiting for the oncologist to call me back. Then me saying we need this-and-such test, you need to consent the patient. Then having to contact the patient, get the patient to come up, come in and get scheduled, have the consent. Come back, have the testing, takes a couple days. And then do this again for the same patient. So we do this iteratively. [LB1038]

SENATOR GAY: Multiple times. [LB1038]

JILL HAGENKORD: Yeah, to get to one diagnosis; where now, we just practice medicine and it takes a couple of days. [LB1038]

SENATOR GAY: And on that test on the first testifier, the proponent, you pretty much think you know what that was. But on that case, do the physicians know though, I mean, this test costs \$10,000? [LB1038]

JILL HAGENKORD: Typically, the genetic healthcare professionals, people like myself who would typically be ordering that kind of test, they do know. There's only, you know, one company that offers that particular package, and you would...and we're all very sensitive to how expensive that testing bundle is. It's not one single test. There's actually eight genes bundled into that test. It's a complex battery of tests. If that's...and I'm not even certain that this is the right situation. But it would be similar to...it's the only circumstance where I know where you're getting bills like \$10,000. And when people do order that test, you know, it's the strong recommendation of medical genetic professionals that that test only be ordered by medical genetic professionals. [LB1038]

SENATOR GAY: Okay. [LB1038]

JILL HAGENKORD: Yeah. Now if somebody was kind of ordering it out of line, you know, somebody who didn't have enough background to order it, that's a problem. But

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that's... [LB1038]

SENATOR GAY: A mistake. [LB1038]

JILL HAGENKORD: Yeah. [LB1038]

SENATOR GAY: All right. Any other questions? I don't see any. Thank you. [LB1038]

JILL HAGENKORD: Thank you. [LB1038]

SENATOR GAY: (Exhibits 3, 4, 5, 6) Any other opponents who would like to testify? I don't see any. We did receive letters in opposition: the Nebraska Medical Association; it looks like Dr. Rebecca Anderson; and then the Nebraska Hospital Association. And then also there's a letter from the Department of Health and Human Services; I'd say that's neutral. I just glanced at it and it didn't say opposition, just informational, so we'll put that in as neutral. So is there anyone who would like to testify neutral? Senator Fulton, do you want to close? [LB1038]

SENATOR FULTON: Yeah, I will. Thank you, Mr. Chairman. I'll be brief. As a way forward, so I...ostensibly it seems as if we can come to an agreement that indeed there was a miscarriage of justice here, or at least that there is a problem and could potentially be a problem going forward, I would propose to the committee, you know what my intention is. If indeed we have...if the language is problematic, then we need to work through that language and specifically here I am referring to page 3, lines 7-10, in the green copy of LB1038. But as a way forward, I just want to point out that we already have existing statute, that which exists now, and those plans that are in place now as regard to predictive genetic testing could be applied in such a way as to encompass genetic testing that we're talking about here. Perhaps that is problematic, but it can be done, for it has been done statutorily. Further, the--and I won't name names here--but the hospital actually...the hospital from which this bill has its genesis has actually changed procedure such that no DNA testing will now be done on outpatients until the patient/family has met with the clinic administrator to assure the family understands what's going on. So there is a way forward, we can get there, and I would be willing to sit down and work with the committee based on this existing statute. So, thank you. [LB1038]

SENATOR GAY: Thank you. Any questions for Senator Fulton? I don't see any. Thank you, Senator Fulton. Close the public hearing on LB1038 and go on to LB941. I'll turn this over to Senator Howard. [LB1038]

SENATOR HOWARD: Welcome, Chairman Gay. [LB941]

SENATOR GAY: Welcome, Senator Howard. Thank you. [LB941]

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SENATOR HOWARD: That's what we do in Education. [LB941]

SENATOR GAY: (Exhibit 1) For the record, my name is Tim Gay, represent District 14, here today to introduce LB941. LB941 would permit optometrists to dispense a contact lens containing an ocular pharmaceutical agent which is classified by the federal Food and Drug Administration as a drug. Currently, optometrists are able to prescribe and sell contact lenses. However, a new contact lens is coming out on the market that will contain medications that will be dispensed into the eye through this lens. It's necessary to amend our current statutes to make sure optometrists are able to continue to serve their patients as they traditionally have. LB941, optometrists would be allowed to prescribe the contact lens, not dispense, causing a hardship for their patients without LB941. The patient would then need to have the prescription filled by a pharmacist provided the pharmacy even carries the lens, and then would have to go back to the optometrist to have it properly fit. Not only is this an inconvenience, it is also an added cost to the patient. Numerous states across the nation are updating their statutes to address this issue. There will be testimony following mine, explaining this contact lens and the need for this bill. In addition, everyone should have a copy of an amendment which, is in my understanding, addresses some of the concerns that were brought up after this bill was introduced, and it has no fiscal impact. So, in short, this is a preemptive bill to prevent a problem that could occur with new technology that's coming out in the medical field. I was asked to introduce this on behalf of the optometrists, and that's where we're at. Thank you, Senator Howard. [LB941]

SENATOR HOWARD: Thank you. Do we have any questions for Chairman Gay? Well, we understand this completely now. (Laugh) Proponents of LB941. Welcome to the Health Committee. [LB941]

TED VORHIES: (Exhibit 2) Thank you. Good afternoon, members of the Health and Human Services Committee. My name is Dr. Ted Vorhies, V-o-r-h-i-e-s. I'm a licensed optometrist practicing in Lincoln and Wahoo, and I'm the president of the Nebraska Optometric Association. I appear before the committee today in support of LB941 on behalf of the 295 members of the Optometric Association of Nebraska. You heard from Senator Gay about the intent of the bill. I'd like to provide some additional background and clarification and stress why we believe this bill merits your support. The legislation is needed because of a new ophthalmic product that is due to come out on the market later this year. The product is a new type of contact lens which will contain medications treating common conditions of the eye. These lenses will dispense medication topically through time-release technology, providing an alternative to drops for patients. As you know, the prescription, fitting, and dispensing of contact lenses has been part of the authorized practice of optometry in Nebraska and across the country for many years. Likewise, authority to treat eye disease with a broad range of medications has been a part of the practice of optometry in Nebraska for many years. As a result, it's important

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to point out this bill does not increase the scope of patient care that optometrists are allowed to provide. Current law already will allow prescribing and fitting of these medicated contact lenses, and the medications contained in these new lenses would be pharmaceuticals already authorized for our profession. The need for LB941 is simply to clarify the authority for optometrists to dispense these new contact lenses since they will be classified as a drug by the federal Drug Administration. I would point out, too, that the current exemption for optometrists in the state's Pharmacy Act is being expanded to include the sale of contact lenses that contain and deliver ocular pharmaceutical agents. The exemption will not extend the sale of any other type of pharmaceutical agents or drugs. This bill is designed to address one specific new type of ophthalmic product. Without the statutory changes proposed in LB941, many patients would be unable to purchase these contact lenses from their eye doctor. Their alternative would be to make a separate trip to a pharmacy, which typically does not carry contact lenses, to make the purchase. Then after buying the medicated contact lenses at the pharmacy, the patient would need to return to the eye doctor to have their lenses fitted correctly, since pharmacists legally cannot do contact lens fittings. We trust the committee will agree that this would be an unnecessary and unwarranted inconvenience for patients, especially in the rural areas. The Nebraska Optometric Association agrees with the amendment introduced by Senator Gay. The amendment was developed to reflect input and recommendations from ophthalmologists and pharmacists and we have welcomed their involvement in this issue. Doctors of optometry are exceptionally well-versed in safely and effectively prescribing contact lenses and the pharmaceutical agents that would be impacted by this bill. We simply need the support of the Legislature to assure that patients all across Nebraska will be able to buy the new product from their eye doctor that combines the contact lenses and medications that we use every day in our clinics. I ask for the committee's support of LB941. Thank you. [LB941]

SENATOR HOWARD: Thank you, Dr. Vorhies. Do we have questions? Senator Stuthman. [LB941]

SENATOR STUTHMAN: Thank you, Senator Howard. Doctor, tell me a little bit about this product that's impregnated into the new contact lens. What does it do or what type of substance is it? [LB941]

TED VORHIES: There are none on the market at this point, but the first one that appears to be...that would come to market, will be one that has a medication for allergy relief. [LB941]

SENATOR STUTHMAN: For allergy relief of the eye. [LB941]

TED VORHIES: For allergy relief of the eyes. Correct. [LB941]

SENATOR STUTHMAN: If a person would happen to lose that contact lens, will it have

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any effect on the environment if it's lost when you're fishing or something like that?
[LB941]

TED VORHIES: Not to my knowledge, no more so than any other contact lens. [LB941]

SENATOR STUTHMAN: But this contact lens has got that medication impregnated into the lens, right? [LB941]

TED VORHIES: Correct. [LB941]

SENATOR STUTHMAN: So. Okay, that was the concern that I had, you know, of...okay, how long is this medication supposed to last in that lens? [LB941]

TED VORHIES: Again, the initial lens, to my knowledge, that is being introduced or will be introduced is a lens that's designed to be replaced every two weeks. [LB941]

SENATOR STUTHMAN: Oh. So then the value of the medication is really... [LB941]

TED VORHIES: There is a half life, yes. [LB941]

SENATOR STUTHMAN: ...completed in the two-week period, so. [LB941]

TED VORHIES: Yes, to the best of my knowledge. [LB941]

SENATOR STUTHMAN: Okay. Thank you. [LB941]

SENATOR HOWARD: Do we have any other questions? I actually have one. When do you expect that this product is going to come on the market? Or what do you project?
[LB941]

TED VORHIES: I'm not one to ask. Johnson and Johnson is the company that is in trials right now, and the last I heard... [LB941]

SENATOR HOWARD: But you're seeing it coming in the future or we wouldn't be here.
[LB941]

TED VORHIES: Well, the last I heard, they're hoping to by this summer sometime, have these available. [LB941]

SENATOR HOWARD: And then without this legislation, the only way someone could obtain these contacts would be at the pharmacy from a pharmacist. [LB941]

TED VORHIES: Correct. [LB941]

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SENATOR HOWARD: Okay. Thank you. [LB941]

TED VORHIES: Thank you. [LB941]

SENATOR HOWARD: Other proponents. [LB941]

JAMES KIRCHNER: Good afternoon, Senators and members of the Health and Human Services Committee. My name is Dr. Jim Kirchner; that's K-i-r-c-h-n-e-r. I'm a private practice optometrist in Lincoln for the last 33 years. I come before you today as chairman of the Nebraska Board of Optometry. I think you have in your packet a letter that we sent from the Nebraska Board of Optometry so I won't go over that information. You have it. I'm just here today to talk to you a little bit about what's going on with this, and I'll be able to answer questions as well. Change is a part of our life, as we all know, and changes because of technology definitely is a part of all of our lives individually. And in the medical profession, it definitely, technology is driving a lot of change. But with this issue, what we're really talking about is, yes, there is a change and the technology is such that a contact lens can now be used as a delivery device to deliver a medication to treat eye conditions where in the past, you know, we've been able to do it with eye drops and you've all probably taken eye drops to treat your eye diseases and eye problems, from allergies to dry eyes to a disease, conjunctivitis, those sort of things. Well, what this will allow is that medications can be embedded into a contact lens so that when you wear the contact lens you're going to have effective treatment over a period of time, as Dr. Vorhies said, with sustained release so that...and time release, so that it will be more effective. We all know how tough it is. Compliance is an issue in our industry, in our field. Patients forget their eye drops. Patients miss their eye when they're trying to use the eye drops. This really helps a lot of problems in the delivery of that medication and that treatment. So it is a wonderful new tool that we will have to be able to deliver that medication to a patient that needs treatment in a variety of different treatment plans, the way it looks. I think that this is a treatment plan that will enhance the treatment for diseases and allergies and many different things. But the thing to remember so it's clear in your mind is that it's not new technology from a contact lens basis or the medications that we're using to treat eye diseases. It's just the way that we're getting the medication to the eye. And to answer Senator Stuthman's question, I think that your concern, there's such a small amount of medication in that contact lens, that if it drops out when you're fishing, it's not going to have...and we're dealing with anti-allergy drops, drops or medications I should say, medication that will help treat maybe dry eyes or even treating a bacterial conjunctivitis with some antibiotic. But that small amount in that lens if it fell out isn't going to hurt the environment. So any more than that little piece of plastic is going to hurt the environment. So I don't think there's a real concern there, so. We...I'm here to say that the Nebraska Board of Optometry has looked at this and realizes that this is something that we need to address because currently optometrists can sell contact lenses. We have for over 50 years. We've been

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at the forefront of contact lens delivery forever. We treat eye diseases with eye drops and every kind of medication that is available. This just allows us as optometrists to be able to deliver this medication with this contact lens out of our offices. So when the patient is in, we can deliver it to you. And because it is classified as a drug that we're using, we are not now licensed to be able to sell a drug out of our office, and that's what this is really addressing. It changes that so that we can sell this to a patient. And we're working...we're talking to a pharmacy. Our Board of Optometry's job will be to implement the rules and regulations for this, and to be able to implement those rules and we're going to be in touch with the Board of Pharmacy to be able to get their input as to the regulations that will be created to implement this. So we are here to say that we support LB941. Questions? [LB941]

SENATOR HOWARD: Thank you. Do you have any...? Questions? Yes, Senator Campbell. [LB941]

JAMES KIRCHNER: Questions? [LB941]

SENATOR CAMPBELL: Thank you, Senator Howard. I should let everyone know that Dr. Kirchner has been my doctor for his entire career, and so we've had a very long... [LB941]

SENATOR HOWARD: Full disclosure. [LB941]

SENATOR CAMPBELL: I have full disclosure here. (Laughter) But he stopped into my office and one of the questions that we discussed and that I thought you might want to cover is how long this would last, because I thought that was very interesting. [LB941]

JAMES KIRCHNER: It is, and that's a good question. And there's so many things that as of yet we don't know because this is new. There'll be other manufacturers that will also be able to do this, other pharmaceutical companies that will be able to do this. And it will depend on the medication, what we're trying to treat. But in today's world, there is daily disposable contact lenses that you use and throw away every day. There's two-week disposable lenses. These medications I could see could be embedded into a two-week lens for a treatment of a two-week condition or it could be a daily for dry eye. There's a lot of mechanisms here that are available. But it will be very effective. Because you have a contact lens on, it will be working all day long on that eye rather than just an eye drop that can drop on and wash out. Much more effective here. So this is...and probably in lower dosages, so this is going to be very exciting and very effective treatment. Does that answer the question Is that what you're talking about? [LB941]

SENATOR CAMPBELL: Thank you, Doctor. Absolutely. [LB941]

SENATOR HOWARD: Thank you. That really was helpful. Are there any other

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questions? No. Thank you. [LB941]

JAMES KIRCHNER: Thank you. [LB941]

SENATOR HOWARD: Next proponent. Hi. Welcome. [LB941]

JONI COVER: Thank you. Good afternoon. My name is Joni Cover. It's J-o-n-i C-o-v-e-r. I'm the executive vice president of the Nebraska Pharmacists Association and I'm here today to offer our support of LB941 and the amendment that was provided to you by Senator Gay. I'd also like to say thank you to the Nebraska Optometric Association for their work with us to address our concerns. And with that, I'll be happy to answer any questions. [LB941]

SENATOR HOWARD: Do we have any questions? Oh, Senator Stuthman. [LB941]

SENATOR STUTHMAN: Thank you, Senator Howard. Joni, how many types of medications do you feel will be utilized in that impregnating of the lens, the contact lens? [LB941]

JONI COVER: Well, since...I'm not sure that I'm really the person to answer that but I could see that there's a potential for many different types of allergies, different eye diseases. I mean, I see there's a great potential here for a wide variety of drugs to be used in contact lenses. [LB941]

SENATOR STUTHMAN: So this is probably...this is groundbreaking technology that could really be advantageous in the future. [LB941]

JONI COVER: Right. One of the interesting things about the medication that's additionally being discussed about putting in the contact lenses is that right now contact lens wearers have to take the contact lenses out to put the eye drops in, you know, wait awhile before you can put your contact lenses back in. So, yeah, this is revolutionary technology, so. [LB941]

SENATOR STUTHMAN: Okay. Thank you. [LB941]

JONI COVER: That is my unmedical opinion there, okay? I have to qualify that. (Laugh) [LB941]

SENATOR HOWARD: Do we have any other questions? Thank you. [LB941]

JONI COVER: Thank you. [LB941]

SENATOR HOWARD: Welcome. [LB941]

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BILL MUELLER: Thank you, Senator. Senators, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska Academy of Eye Physicians and Surgeons in support of LB941. No, I'm not mistaken: the ophthalmologists do support this bill (laughter). We also wish to thank the optometrists for including us in this discussion and the very minor changes that we have requested, they have been kind enough to include in AM1900 that you have before them. We do believe that this legislation is necessary and appropriate and we support it. Be happy to answer any questions you may have. [LB941]

SENATOR HOWARD: That's nice when the ophthalmologists and optometrists work together. [LB941]

BILL MUELLER: Isn't that nice? It is nice. [LB941]

SENATOR HOWARD: Yes. Do we have any questions for this testifier? I don't see any. Thank you. [LB941]

BILL MUELLER: Thank you. [LB941]

SENATOR HOWARD: Other proponents? Opponents? Neutral? Senator Gay to close. [LB941]

SENATOR GAY: Thank you, Senator Howard, members of the committee. I'll be brief. How do you like that one? You can get everyone together and it's just. [LB941]

SENATOR HOWARD: Terrific. You did the hard work. [LB941]

SENATOR GAY: Well, I didn't, but anyway they...I just did want to say for the record, you know, we deal with a lot of tough issues and they've all handled this, the optometrists, the ophthalmologists and the pharmaceutical association have handled this very professionally and it's just a real testament to their hard work on this bill. I do think, like I say when I introduced it, it's something we can do to help this out. It sounds a very beneficial bill and I was glad to do it. But they did get along quite well and I wanted to commend them for that, so. [LB941]

SENATOR HOWARD: (Also see Exhibit 3) Well, we appreciate it. Thank you. Do we have any questions for Chairman Gay? No. All right, thank you. [LB941]

SENATOR GAY: Thank you. [LB941]

SENATOR GAY: Senator Karpisek is here to introduce LB1005. Welcome, Senator Karpisek. [LB1005]

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SENATOR KARPISEK: (Exhibit 1) Thank you, Chairman Gay, 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 Unicameral. I think I've spoken to all of you. If not, I do want to reiterate that this...I intend to make this my priority bill if we can get it out of committee. And we all know that that is...the date is fast approaching. So I would appreciate if you can Exec on it at your earliest convenience. LB1005 is an important first step in addressing the issue of Native American substance abuse in and around Whiteclay, Nebraska. During this past interim, the General Affairs and Judiciary Committees held hearings to discuss the issue of alcohol sales and consumption in Whiteclay. Those hearings were held in Lincoln. The second one was a video cast between the two...between Chadron and Lincoln. It did not work out very well because of the feed. However, it was...special session kind of put a damper on us going out there and the money that it would have taken to get out there. So I do apologize to everyone involved in that. However, we did get some input from out there. Also, last April I flew out to Whiteclay with the Attorney General, Senator Coash, trying to think of who all else went that time. Anyway, also flew out with the Governor and Attorney General, Senator Coash and Loudon, last month, to talk to the tribe. So a lot of these things, we have members here today that can speak to them. But we have been in contact with them and we've been boots on the ground, if you will. Don't pretend to know all the issues, but hoping to give them something to work with. So from the hearings and the related discussions came a number of recommendations. The recommendations were far and wide. We put them all out on a piece of paper and told anyone who wanted to, you can pick. I picked this way to go on it. There's, of course, a lot of different ways, and I'm still getting a lot of heat that it's not the right thing, it's not enough, it's a number of things. I think this is the farthest we've been on this issue. This is the way I want to go. There are other issues out there that we're working on. I don't want to get into the other parts to throw negativity on it. Some of it just isn't doable. So I decided to introduce LB1005 and focus on increasing the availability of substance abuse treatment programs with the particular sensitivity and respect toward Native American cultures and traditions. The need for these services is great and there are others here who can testify to that. I won't belabor that point. I think we all know that we do have problems. LB1005 creates the Substance Abuse Treatment Grant Program within the existing Native American Public Health Act. LB1005 would appropriate \$250,000 from the General Fund to the grant program and would require a match by the recipients, an equal match. The grant program was to be administrated by the Department of Health and Human Services in the original bill. I have handed out an amendment that after conducting a meeting last week with approximately 25 interested parties, including representatives from HHS, I have decided to offer an amendment to instead have the Commission on Indian Affairs administer the program. Many of you who have followed the issue of alcohol consumption at Whiteclay would likely agree that this is a serious problem and any attempts at solving this issue will not be cheap. In addition to the \$250,000 for the grant portion of the program, the Commission on Indian

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Affairs estimates an additional \$48,000 to \$80,000 would be needed to administer this program. However, I would like to point out that in anticipation of LB1005's fiscal note, even with the original...I'm sorry, with the additional costs of having the Commission on Indian Affairs administer the program, I have also introduced bills that would increase fees regarding liquor licenses. I have a bill on Select File that would cover...that would increase revenue by nearly half a million dollars, which would more than cover this bill's adjusted fiscal note, that is the shipper's fee bill. Alcoholism is a problem across this country but has reached epic levels on Native American reservations, especially among the Oglala Sioux Tribe on the Pine Ridge Reservation. I believe that to ignore this issue would be irresponsible on the part of Nebraska, given our role in supplying a huge amount of alcohol to Native Americans in and around Whiteclay and Pine Ridge. I ask you to please take a moment to seriously consider the need for these services and the help that this bill will provide is a first step in addressing this issue. I realize again that this is going to take much more money; this is just the start. Of the 25 interested parties last week, we had members from the offices of our federal delegation trying to find ways that they can help out. Hopefully, this gets the ball rolling and more money can come in through the federal government. I think all of our senators and representatives are interested and willing to help. This issue, I've heard, been kicked around back and forth so many times on whose fault it is, whose problem it is, I don't care whose problem it is. I want somebody to step in and try to help. This bill isn't going to solve all the problems. I don't think any one bill can solve all the problems. Senator Coash is working with the Attorney General on some grants to help clean up Whiteclay. Senator Loudon has a bill. Again, it's going to take a lot of other things, but this is a good start. I think that we need to do something, hopefully, get the ball rolling. We also have the beer distributors are involved in these discussions. I'm hoping once we get some money rolling that maybe they will help out to donate some money. Senator Krist has flown to Pierre, South Dakota and talked with representatives in the House there, the Speaker of the House, to try to get together and if nothing else have a joint push on both of our federal delegations to try to help us with this issue. So there's been a lot gone into this. I think we absolutely owe it to the people to do something. I am, after I slept on the Indian Affairs Commission running this program, I think that is the right way to go. And I'm excited about it. There's a lot of work to be done. It's not the be-all end-all, but it's a start and it's a good start. With that, I would be happy to take any questions. [LB1005]

SENATOR GAY: Senator Wallman. [LB1005]

SENATOR WALLMAN: Thank you, Chairman. Thank you for bringing this bill, Senator Karpisek. I gave a speech when Homestead was dedicated and really moved me. A Native American stood up and he says, I couldn't homestead this land where I lived because I wasn't considered a citizen. So I think it is time we do something. And I appreciate you bringing this forth. And was South Dakota open for helping and getting aboard also? [LB1005]

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SENATOR KARPISEK: Thank you. I don't know how far they'll go. They haven't...we didn't even ask for any money...I shouldn't say we; Senator Krist took this upon himself. Appreciate that. Didn't really talk money, but support, help. Again, we have the issue of why should Nebraska taxpayer money go to help South Dakota residents? I don't care about that anymore. They are people, they come across the border. They don't come across the border. They need some help. We need to do what we can. If it doesn't work, it doesn't work. But I think we haven't done enough. [LB1005]

SENATOR GAY: Senator Karpisek, I have just a couple questions then. So does the amendment then replace this green copy, bill? [LB1005]

SENATOR KARPISEK: Yes, it does, Senator Gay. [LB1005]

SENATOR GAY: So that we should consider that as the bill. [LB1005]

SENATOR KARPISEK: Yes, it does. I'm sorry, I meant to mention that. [LB1005]

SENATOR GAY: And then, no that's all right. And then you made...so the fiscal note we're looking at is not going to be...that's still accurate as far as the General Funds match. But then you had mentioned then you've got some different...to have the Indian Commission run it, it's substantially higher because the...in this fiscal note it said HHS would have minimal increase in the workload whereas there will be more. So you're going to add to the fiscal note probably this copy? [LB1005]

SENATOR KARPISEK: Yes. [LB1005]

SENATOR GAY: Was there any...did you give a number what that might be? [LB1005]

SENATOR KARPISEK: Yeah, \$48,000 to \$80,000, I'm sure Judi gaiashkibos is here, who can... [LB1005]

SENATOR GAY: Okay, \$48,000 to \$80,000. So it's a full-time employee or something? [LB1005]

SENATOR KARPISEK: Yes. And I'm not even going to speak for her. She's much more eloquent than I. [LB1005]

SENATOR GAY: Okay. And then, I guess, you had talked in your committee, in General Affairs, they've got those bills going. And I didn't follow them. I've read in the paper, how are those going, I guess? Because we'd have to understand what's happening there to make a decision here. [LB1005]

SENATOR KARPISEK: The shippers license fee, and I'm sorry, I don't know that

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number off the top of my head, is on Select File. [LB1005]

SENATOR GAY: Yeah, the \$1,000. [LB1005]

SENATOR KARPISEK: Yes, up from the \$300. [LB1005]

SENATOR GAY: And then the tax... [LB1005]

SENATOR KARPISEK: Uh-huh. Trying to think, we also have raising fees for first time liquor license from \$45 to \$500. We...the Liquor Commission estimates that it costs about \$300 to do the first time licenses, \$500 is what we've put in the bill. Of course, so there's not a lot of extra money there, if you want to think of it as extra. But at least it's putting their finger in the dam instead of losing money on each one of those to at least break even. So really, the shippers license fee bill is the main one that would bring in around half a million dollars. This is a one-time expenditure in my bill. This does not continue on. I think, once we would get this in place and see how it's going, because hopefully the \$250,000 would be with a match \$500,000, and any other money. Maybe a new building could be put up or new facilities built. There's talk about a nursing home being built on the tribe's land in Nebraska. We've talked about maybe being able to contract out some of these services and renting out a part of that building or another building being built on that site as a federal program. I think a lot of the fixed costs can be addressed by this bill if we can get more money rolling. Then, I think, down the line, next year and the year after would be the \$48,000 to \$80,000 to still keep the person at the Indian Affairs to monitor how all of it's working. [LB1005]

SENATOR GAY: That's an ongoing expense. [LB1005]

SENATOR KARPISEK: Yes. [LB1005]

SENATOR GAY: So you'd said several times "substantial amounts." What is substantial amounts? You said, in order to solve this problem, in your...I mean is that like ballpark, so we could...? [LB1005]

SENATOR KARPISEK: Oh. Oh boy, I would say in the millions. [LB1005]

SENATOR GAY: Okay. [LB1005]

SENATOR KARPISEK: Again, this is not the one answer. [LB1005]

SENATOR GAY: Yeah, it's a start. [LB1005]

SENATOR KARPISEK: I don't know what...I don't even know, Senator, what the one...there isn't one answer. And I don't know how many there are. It is tough with that

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border, the South Dakota border, because we hear about Whiteclay and how bad it is. Across the border in Pine Ridge there's a lot of problems too. And so we can't step over there but somehow we need to work together with South Dakota. Hopefully, this will get them moving and work on their part. You know, some people are just adamant that we close those beer stores in Whiteclay. In my opinion, that doesn't solve the problem. This doesn't solve the problem either, but I think we would be open for lawsuits, we'd have to pay those owners out. And I really have a hard time stepping in to private business. If we could do something where the people don't go buy that beer, those beer stores would go away. And I know that's a long shot and I know that's wishful thinking. That's my thought on why I introduced this bill. Again, trying to do something...we have a lot of people, boots on the ground, again, they're working to help the situation. They're really working hard--Bruce BonFleur, the tribe, so many people there are trying to help. I think a little push; Senator Coash has helped to clean up the town, get rid of some of the abandoned houses where people go to drink and light fires and stay warm. I think getting rid of some of that will really help...try to get some community pride, not have places where they can just be. [LB1005]

SENATOR GAY: All right, thank you. Senator Campbell. [LB1005]

SENATOR CAMPBELL: Thank you, Senator Gay. Senator Karpisek, in the new white copy it talks about the amounts requested and approved shall be supported by a local dollar for dollar match. [LB1005]

SENATOR KARPISEK: Yes. [LB1005]

SENATOR CAMPBELL: How will they get that dollar for dollar match? [LB1005]

SENATOR KARPISEK: That would be, hopefully, up to the Indian Commission to help that extra, that...again, I'll let Judi talk more on that. But I think some of the people that are already up there, NEPSAC is one institution that is providing some treatment. They think that they can get some money. They don't know if they could get the whole thing. Again, I don't know that it should go all to one or split it up into smaller ones. And again, after thinking about it more, I think that's why the commission is the best place for it because they understand it much better than I do. And, hopefully, we can get the most bang for our buck. [LB1005]

SENATOR CAMPBELL: I appreciate your interest. [LB1005]

SENATOR GAY: Senator Karpisek, I've got another question for you. So when I read this amendment it says, "but shall give priority to contracts which meet the following," there's four...there's five very broad programs listed there, though. Do you think, you know, being that broad, just like the first one, activities that directly impact the health and well-being of children, I mean, we deal with those issues consistently and we spend

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hundreds of millions of dollars on just those issues. But if we're talking \$250,000, do you think that might be too broad then for the issues because...? [LB1005]

SENATOR KARPISEK: It could be, Senator. It could be. And I would be willing to pare that down again. We've had meetings, numerous meetings over this. I guess, right now, however, I feel the committee and the Indian Commission could get together and figure out the best way, I would be in favor of. [LB1005]

SENATOR GAY: So we'd have some discretion if we... [LB1005]

SENATOR KARPISEK: Yes, yeah. We know where we want it to go. I don't want to make it so tight either. There are other tribes in the state that also have some issues. Senator Rogert's district. Now I would like it to be weighted to go to Whiteclay. However, once...if all the money is not spent or some other problems crop up or, hopefully, this thing can keep going. There may be issues there too. So I didn't want to pigeonhole it. But you're right, it may be a little too broad. [LB1005]

SENATOR GAY: Okay, thank you. Any other questions for Senator Karpisek? I don't see any. Thank you, Senator. [LB1005]

SENATOR KARPISEK: Thank you. [LB1005]

SENATOR GAY: How many proponents are we going to have speaking, testifying actually? Are there any opponents that are going to be talking? All right. And anyone neutral on this? Don't see any. All right, come on up and we'll get going. [LB1005]

JUDI GAIASHKIBOS: Thank you, Mr. Chairman and members of the committee. My name is Judi gaiashkibos; I'm the executive director of the Nebraska Commission on Indian Affairs and a member of the Ponca Tribe of Nebraska. And my name is spelled Judi, J-u-d-i gaiashkibos, g-a-i-a-s-h-k-i-b-o-s. And I think it's appropriate that I speak to kind of maybe clarify some of the questions that you had about the Indian Commission being named as the administrator. We are very honored and pleased to fulfill that capacity for the state. And we do believe that the Indian Commission is the most appropriate entity. Our history is that we've been in existence as the agency that works on behalf of Indian people, since 1971. This is my fifteenth year as the executive director and so I believe that I have the experience and I have worked with the Legislature, with the tribes, with the Congressional delegation and I have the capacity and the sensitivity and the competency to deliver and maximize this one year's funding. I would have preferred that this be ongoing funding, \$250,000, every year, similar to the Native American Health Fund Act dollars that were enacted some ten years ago for the purposes of prevention for our tribes in Nebraska. But as we all know, life is many compromises. And so we're just thrilled that Senator Karpisek this year and all of you have the opportunity to take action and to do something finally. Because Whiteclay, we

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all know about Whiteclay, it's been here for a long, long time. When I began my job it was with Governor Nelson. And I remember making my first trip up there with then HHS director, Jessie Rasmussen. And we went up there and we worked with the Oglala Sioux. Some of my colleagues here in the room accompanied me on that trip. And we looked at this in a cultural context of as the Oglala Sioux say, the teosh (phonetic) pay, the extended family. And the implications that the disease of alcoholism, it's a family disease. And I think all of us here probably have someone that we know intimately that suffers from that disease. It knows no socioeconomic preference; it affects all of us. So perhaps the bill may seem, LB1005, a bit broad in that it has many components, Senator, for children. But with this disease, if we approach it in a holistic way, I think that will expand our opportunities to seek grants and funding. What I envision, and that range of money, \$48,000 to \$80,000, originally the bill was written with DHHS was going to do that. And the challenge there, why we didn't want DHHS to handle it, not that we don't think they're competent, but it's such a huge, huge machine, if you will. And after visiting with individuals over there, the individuals that would administer the money with DHHS, that would be all they would work on, that and they wouldn't be allowed to perform other duties. In our small agency, which we're up on the sixth floor, we currently have a staff of three. So with this money the range is to hire a grants administrator. Now we don't know for sure if the person will be single or married, so that the insurance is the issue there, it can be higher if it's a person with a family for the cost of insurance. But I will work hand-in-hand with the person; I would be their supervisor. Through my long experience working with DHHS, with Indian Health Service, with SAMHSA and others we could find other grant monies. Currently, I have identified a five-year grant for \$125,000 each year to deal with substance abuse. So we would take this money and we would be the administrator. We would probably form a subcommittee comprised of someone from your committee, someone, maybe Senator Karpisek, a tribal representative, and someone from Indian Health Service, perhaps the Congressional people. So we'd have a small subcommittee to subgrant the monies. But we would grow the monies. This staff person would write other grants and we would build our capacity. So we would have a longer...a larger impact. And we...this is our passion, this is what the commission is designed for. We are there to provide for Indian people so that they have equality before the law in the state of Nebraska. And we have a unique standing in Nebraska in that we are citizens of our sovereign, tribe and of the state. So many people that live in Nebraska are members of the Oglala Sioux Nation along the border communities, Chadron, Gordon, Rushville. And many Indian people in Nebraska are impacted. And the Legislature and the state of Nebraska is compelled to provide education and health benefits for Indian people because we have that dual citizenship. So again, I thank you for this opportunity. I commend Senator Karpisek for his vision to address Whiteclay and the whole issue...it's long been overlooked. And for our Indian people, this is a beginning; it isn't the end-all solution. But to do nothing really would be a sad day in Nebraska. And I think it's time for policymakers and for the Indian Commission to step up to the plate and say that we would like to be a part of having an impact. And that when people look back they can say that this committee did the right

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thing and decided to do something and not do anything. So with that, I would be happy to answer any further questions for clarification of us as the administrator. [LB1005]

SENATOR GAY: Thank you, Judi. Senator Campbell. [LB1005]

SENATOR CAMPBELL: Thank you, Senator Gay. Judi, we talked a little bit about, Senator Karpisek, about the grants, the dollar for dollar. And how would you...you'd see bringing in those grants rather than from the community, I'm assuming. [LB1005]

JUDI GAIASHKIBOS: Well, I would say, and I was thinking, Senator Campbell, I work with Senator Campbell on CEDARS; I'm on the board for CEDARS Home for Children. And I was thinking about some of the questions. And way back to the beginning of CEDARS it was a dream...it was of the family to provide homes for children that didn't have homes. And it just started out with a little family's home and then it grew to what CEDARS is today. And it's, you know, exemplary for helping children that are homeless. This is small, but somewhere down the road maybe we can be a CEDARS with the support. And in the grant world, I think there would be many applicants, NEPSAC, for instance, and that's the North East Panhandle Substance Abuse Center, that probably do have grants existing that could be the match. We could go to the private sector. We can go to the tribal sector. We could look at SAMHSA, as I had stated, this grant that I've identified, we would be looking for every possible dollar to grow that amount. But as we send our RFAs, RFPs, we'd have those come in. The person, the entity that would be receiving the grant would have to demonstrate that they have the capacity to do the match, that they have the cultural competency to deliver. And our agency is well aware of all of that, and I think we would best do a good job in due diligence and making sure that the money was well spent. What I don't want to see happen is that we have a lot of applications come in from people that mean well but that really might do some little, minute thing for Indian people, but the majority of the money would not benefit Indian people. Because I think that the intent for Senator Karpisek on this LB1005 is that the funds should address the real issue here at Whiteclay. So I think the applicant would find ways to come up with the monies, and we would assist them in finding money. [LB1005]

SENATOR CAMPBELL: Okay, thank you. [LB1005]

SENATOR GAY: Judi, I've got a question for you. Right now, do you know, is there any money coming from the tobacco settlement funds that go to any Indian causes now? [LB1005]

JUDI GAIASHKIBOS: In years past, the tribes were eligible for tobacco dollars, and I'm not sure if they currently are. I was just reading in the paper about that, how, you know, there are different people that want some of that money. So, however, at the Whiteclay area I don't believe there was ever any money that was allocated. The other tribes, I

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believe, were eligible to apply for tobacco dollars. [LB1005]

SENATOR GAY: And you had talked about there's \$250,000 right now in the Indian preventive health care act. Is that annual? [LB1005]

JUDI GAIASHKIBOS: The Native American Health Fund Act,... [LB1005]

SENATOR GAY: Yeah. [LB1005]

JUDI GAIASHKIBOS: ...the other pot of money? [LB1005]

SENATOR GAY: Yes. [LB1005]

JUDI GAIASHKIBOS: Yes, there is \$500,000 that the Legislature appropriates, \$100,000 for each of the four tribes, and that's for prevention. The fifth \$100,000 goes to western Nebraska, and that's currently being administered at the Chadron Indian Center. And that is a competitive process for the \$100,000. So we might want to partner with them on that to deliver some program there at Whiteclay. But the tribes, the Winnebago, Omaha, Santee and Ponca each receive \$100,000 from Health and Human Services for addressing diabetes, heart disease, cancer and for prevention. And that is ongoing money. So that's why I said if we could have had \$250,000 each year generated from the charges that the Liquor Commission is imposing on the shippers, that really seems like that would have a long lasting impact. So if the committee would like to amend (laugh) Senator Karpisek's bill to be not just one-year funding but continued, that, I think, would even be better. [LB1005]

SENATOR GAY: All right. Senator Stuthman. [LB1005]

SENATOR STUTHMAN: Thank you, Senator Gay. Thank you, Judi, for testifying. Been many years I've seen you come and testify here. Give me a little bit of information about Whiteclay...what type of industry do they have there? What is the unemployment rate in that community? [LB1005]

JUDI GAIASHKIBOS: Well, Whiteclay is a very unique community in that it's not a community like you and I know. It's not like Columbus or it's not like Genoa where you have a bank and a school and a post office and a real sense of community. It's kind of a street drive-through. And if you've not been there, you'll probably be quite shocked when you do go there because it's really sort of a ghetto, it's just a...you can't even imagine it exists in Nebraska. I've never seen any community, rural community in Nebraska that looks like Whiteclay. You will see...well, it's comprised of these individuals who have, you know, poverty is generational and exploitation is as well. And up there these liquor licenses have existed for many generations. So you have an unincorporated village of people that their sole purpose is to sell and serve the Indian

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population that's across the border, because otherwise why would they exist? There aren't really any people there. So a captive audience, if you will. And you have people that are very vulnerable. They have very few grocery stores across the border at Pine Ridge. I think there's Big Bat's and not a lot of really good, fresh food like you and I are...have the luxury of getting, fresh vegetables and fruit. It's a lot of takeout, frozen pizzas and that type of thing that lead to childhood obesity and all the other ills for people that don't have a lot available and the whole poverty setting. So on the street, if you drive down any typical day in Whiteclay you're going to see a lot of chronic alcoholics standing out on the street that have visible physical displays of the disease, very red, inflamed faces and, you know, emaciated bodies. You'll see people drinking alcohol where it's not legal to drink. And there are grocery stores there. But what I found so shocking, the first time I went there I took my oldest daughter, and she was a young high school student. And we were kind of scared, it was scary. (Laugh) And I hadn't been there since I was a child with my mother. But the stores had bars on the windows. And it's just really run down and dirty; prostitution going on in buildings and abandoned buildings. And it's something that none of us would want to see anywhere else in Nebraska. And I don't think it does exist anywhere else in Nebraska. Down in southern United States, in Gallup, New Mexico, you will see that there are well, a similar situation. So I hope I fairly described it. And I apologize if I've offended anyone. And the tribal people that speak, perhaps, they won't see it as I saw it. But I do know that people come there to get groceries. There are other things going on there. There is a nonprofit that provides like a soup kitchen. So there are people that are trying to address that. But it's just really run down, awful. It's not what I would say is a community in Nebraska as we know community. [LB1005]

SENATOR STUTHMAN: Judi, where do the majority of the people reside then? In Pine Ridge? [LB1005]

JUDI GAIASHKIBOS: Well, yes, in Pine Ridge or some may come from this side of the state, from Rushville, from Gordon, from Chadron. You know, people go there; their relatives live there, perhaps to see people. And so it's kind of a transient community. It's easily accessible; some of the people walk there; it's close enough that they can walk if they don't have a car. And...but it's, you know, the impact is to Native people. I suspect that if it were a white, if there were four Indian people owning those licenses in Nebraska and it was a street and they were all white people that looked like that, I don't think that it would be happening. I really think it's economic racism at its worst. So we all really need to do something here. It's time to do something. [LB1005]

SENATOR STUTHMAN: Okay. Thank you, Judi. [LB1005]

JUDI GAIASHKIBOS: Um-hum. [LB1005]

SENATOR GAY: Senator Howard. [LB1005]

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SENATOR HOWARD: Thank you, Chairman Gay. Judi, one of the real tragedies, maybe you could reflect on this a little bit, but one of the real tragedies up there is the fetal alcohol syndrome. And a few years ago, I remember Lincoln Journal Star did a series of articles about all the issues up there. But they kind of focused on the fetal alcohol. I'm hoping that this bill will begin to address that too. Do you see that happening? [LB1005]

JUDI GAIASHKIBOS: Yes, I would think that the proposals that would be submitted, we would very much want to see something addressing educating young people, mothers, children in school. I think the statistics show that if children realized the impact to their bodies, to their brain of early drinking, that if you can postpone that until you're older that will allow you to have full capacity and use of your brain. But once your brain is damaged it's irreparable. And for these mothers that have these babies that are born with fetal alcohol effect or the full blown fetal alcohol syndrome, they're destined to a life of less than everyone else. So absolutely, again, they are the most vulnerable. And Native women in the whole United States of America are the most vulnerable for domestic violence. And it's really tragic. So as an Indian woman and as a mother, I stand here saying please, please let's move this bill out and let's give us a chance, let's give us a chance to build a CEDARS. Let's take this little place and make Whiteclay maybe turn into something that Nebraska can be proud of instead of so either, you know, don't even talk about or it's a shaming thing. Wherever I travel in Nebraska or throughout the United States people know about Whiteclay and it's not a nice thing to be known for. [LB1005]

SENATOR HOWARD: Thanks for all you do. [LB1005]

JUDI GAIASHKIBOS: You're welcome. Thank you. [LB1005]

SENATOR GAY: Any other questions? Don't see any. Thank you, Judi. [LB1005]

LYDIA BEAR KILLER: Good afternoon. My name is Lydia Bear Killer. I currently serve on the Oglala-Sioux Tribal Council and I'm here to represent the Oglala-Sioux Tribe. [LB1005]

SENATOR GAY: Could you spell that name out for our clerk? [LB1005]

LYDIA BEAR KILLER: Lydia, L-y-d-i-a Bear Killer, B-e-a-r K-i-l-l-e-r. [LB1005]

SENATOR GAY: Thank you. [LB1005]

LYDIA BEAR KILLER: I guess, I came here on twofold. One is to support this bill. I guess, the majority of all this came out from when we considered LR199, which was an

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investigation that was done for Whiteclay. And we did testify in Chadron. There was people that went out there and investigated Whiteclay. And then it came back and there was a bill introduced, LB1002. I'm hoping that that's still on the table. I came here to request for two things. In the past ten years, you know, we've tried to address the secondary effects of alcohol on the effects to our people. And it seems like it's a failing issue for us. We have a high rate of death at an early age due to the effects of alcohol. We were proposing that if at all possible that one of the biggest needs that we have stemming from Whiteclay is a detox center because the aftermath of alcoholism, the aftermath of everything, you know, we do really need a medically detox service to help them people that she just described that are on the streets. And I'm not going to deny that them people are there. You know, Whiteclay is a city of maybe 14 people with \$4.9 million alcohol revenue that comes off of there. And, I guess, we came here...I came specifically to talk about the secondary effects of this alcohol sale. And it is affecting our Native Americans, mainly in Pine Ridge. And I'm hoping that this bill is intended to help the effects of Whiteclay. And I know that we have federally recognized tribes in the state of Nebraska, which I think there's a need for them too. But, you know, all this talk came from...with Karpisek introducing this and Senator Loudon introducing these, mainly stem from Whiteclay. And I, too, is in favor of shutting down the liquor stores and whatever goes on there, and move it down 20 miles to Rushville. And then it would be not a border issue; it would be not like the reservation issue because we, the Oglala-Sioux Tribe, you know, we're really underfunded and we have a lot of mandates. But we have provided public safety, we have provided ambulance, we have provided medical needs to the state of Nebraska without no cost to the state of Nebraska in Whiteclay. And so today, you know, I'm here to, you know, I support the bill. But like everything is coming in, like FAS is coming in, FAE is coming in, domestics coming in. You know, if all these are going to, you know, cut up this money that we're talking about it's going to have no effect at all. And my concern is that if Nebraska is going to make an impact on Whiteclay, you know, because this all came from Whiteclay, I'm hoping that that money be turned into this detox center that we talked about. And our nursing home, you know, we do have that coming forward. And we do have access to federal dollars. We're not just saying that, Nebraska you do all this, you know, we're willing to step in and, you know, we have an alcohol/drug program director that's here, going to testify too. But, you know, we have access, you know, we're going to ask for support letters. You know, we're not asking you guys to, you know, set up all these and not have, you know, the support of the tribe in trying to find solutions too. But it's time that...I feel that the state of Nebraska needs to take on that issue and to deal with it because we as a tribe have been dealing with it. And to no avail today, you know, we fail because we don't have the revenue, we don't have the money, federal dollars. But we did provide the state of Nebraska all these services without no cost to the state of Nebraska. [LB1005]

SENATOR GAY: All right, thank you. Any questions? Senator Gloor. [LB1005]

SENATOR GLOOR: Thank you, Chairman Gay. And thank you for testifying, Mrs. Bear

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Killer. I have a little experience in doing some fundraising for a detox center. And I don't think \$250,000 matched, so that we've got \$500,000 is going to come close to coming up with the kind of monies necessary for a detox center. I mean, if we can't do a detox center, are you saying that the money won't be well used or that we should keep the money? [LB1005]

LYDIA BEAR KILLER: No. What I'm saying is that we do have some earmarks, we do have the tribe. You know, we do have some that we're willing to, you know, to negotiate or to sit down and make some agreements with this is what I'm saying. [LB1005]

SENATOR GLOOR: So to use the \$250,000 in combination with what the tribe's already raised specifically for a detox center? [LB1005]

LYDIA BEAR KILLER: Um-hum. Yes, that's what we are specifically looking at is a detox center. [LB1005]

SENATOR GLOOR: Okay, thank you. [LB1005]

SENATOR GAY: Any other questions? Don't see any, thank you. [LB1005]

LYDIA BEAR KILLER: Thank you. [LB1005]

TERRYL BLUE-WHITEEYES: Good afternoon. My name is Terry Blue-WhiteEyes; it's a long name. T-e-r-r-y-l B-l-u-e hyphen WhiteEyes, W-h-i-t-e-E-y-e-s. And I'm the director of the Oglala-Sioux Tribe's alcohol and drug program. I've been with the tribe in that capacity for the past 15 years, and before that I worked with the tribe as a clinical coordinator for the program, since 1987. So I'm well familiar with alcoholism, the disease, and drug addiction. And I became involved with...I'm always involved with the Whiteclay issue. We have an outpatient office, a counseling office in Pine Ridge now. And we deal with...we do clinical evaluations, we do outpatient counseling with referral to our residential program, which we have a small residential program in the central part of the reservation. But the Pine Ridge section or the western part of our reservation, which is Pine Ridge, is the highest...we have the highest rate there of incidences related to alcohol, specifically alcohol. We've conducted 1,200 alcohol and drug evaluations within the last year. And 80 percent of those came from the Pine Ridge...were classified as chemically dependent, needing residential and detox referral well, initially detox, which we don't have. And I'm working very hard on developing that detox center and submitted applications for funding to IHS and to SAMHSA as well as the tribe is working on generating revenue for that. It's a much needed service. So when the Whiteclay issue came up and I was asked to be a part of a task force that our President, Two Bulls, put together to help address and work with the Nebraska Legislature for how do we address this problem and how can we, you know, work on a resolution of what's going on there? So on our part, we're looking...and I'm a lady who speaks for

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rehabilitative services for people. And they deserve a second, third, maybe fourth or fifth chance to address their issues and, hopefully, change their lifestyle. And the initial, beginning part of that, in addressing alcohol addiction is detox. The people that are there so that they start to sober up in a humane and medically monitored situation, of which there are none now, and I don't know about Nebraska too much, but I do know in the state of South Dakota there are only four...five state accredited detox centers. And they are not anywhere near any tribes in South Dakota. I'm not sure about Nebraska. I know Gordon NEPSAC, there is a small program there. And they have two beds for detox. Now we're talking about a tribe of, you know, we're close to 30,000 now residing just on our reservation alone. All of the people that are affected by alcohol sales in Whiteclay, I would say 99.9 percent of them are Oglala-Sioux Tribal members who cross back and forth, it's walkable, you know. They're not drinking all those cans of beer right there; they are certainly taking them to the reservation, where it spreads through the communities with the...and that's something we're working really hard to address as well. But when we came together to put this plan together we identified that detox center as a priority. Now it is only \$250,000, not only, but you said with, you know, you would need millions more, which is true. In our program we have worked specifically on developing that component because people are not...it's inhumane what's happening now where they're not being able to...they're afraid to sober up. You have a chronic addiction, you're going to have consequences for that addiction. And when you try to stop and you don't have supportive services you're going to seize, you're going to have hallucinations, you're going to have DT's, you're going to be sick. And those alcoholic people know that and they suffer from that. They want to sober up. But you know what, sister, he says, I can't, I'm scared I'll get sick. You know, they can't...they try it and they can't do it. If we can at least start that beginning process, that initial process with detoxification, safe, humane, therapeutic, culturally appropriate, that's another thing, has to be built in there. Then maybe we can start that person on with at least the services are there on our side with treatment referral, evaluation, recommendations, and all the way up to aftercare and relapse. So prevention that we...our program is called Aneptu Luta Otipi, and it means to live in a red day, and that's really our heartfelt hope that our people sober up and we walk in a good way and live in that red day without alcohol or drugs. So that's what I'm asking today is that this issue came about because of Whiteclay and the impact it has on our people. And I think, you know, it's good that you try to help everybody. But what I learned along the way in my 30 years now working in this field, you can't be everything to everybody. If you have a limited amount of funds, we need to target what we started talking about in the first place was Whiteclay and the impact it has on the Oglala-Sioux Tribe. Thank you. [LB1005]

SENATOR GAY: Thank you. Any questions? Senator Gloor. [LB1005]

SENATOR GLOOR: Thank you, Senator Gay. You're very well spoken, you do a good job. [LB1005]

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TERRYL BLUE-WHITEEYES: Thank you. [LB1005]

SENATOR GLOOR: I don't know that you do a good job at what you do, but I'm going to guess you do since you (laughter) since you make a good point. [LB1005]

TERRYL BLUE-WHITEEYES: I do, I try. [LB1005]

SENATOR GLOOR: I want to make sure I understand. Is your request that to the extent possible we consider this \$250,000 to go towards detox? [LB1005]

TERRYL BLUE-WHITEEYES: Yes. We have the...we've identified a possible site already for a startup for a detox center. And that's right close to Whiteclay and around the correctional facility that we already have there, local facility. And if we could, you know, the funds would be matched with what we're trying to put together on our side from tribal and federal funds to match your \$250,000 to start this as a detox center. Because I know what I'm doing, my staff knows what they're doing, we know what we need to put it together. But we need that initial startup money. And I'm applying for grants now, another thing, and it's called An Access to Recovery grant that I'm submitting for on March 10 through SAMHSA, and it's going to cover the Native people in western South Dakota and western Nebraska. It's a voucher program, it's called Access to Recovery. And it would provide the funds for people to choose where they would like to go and get help from. And we're going to provide a whole systems change with that grant, if we're funded. So I'm constantly looking for monies to...and we have brought in SAMHSA dollars with our Suicide Prevention Program and other grants that we've received. And we are accredited with the state of South Dakota, so we worked long and hard for that. I think it speaks to our professionalism. And all of us are from the community, and we know our community. And, you know, I think we are the experts when it comes to treating in a culturally competent setting for alcohol and drug addictions. [LB1005]

SENATOR GLOOR: Let me ask this question, and I'm speaking very plainly. Many years ago, I lived in Scottsbluff and was responsible for directing some federal monies towards a variety of health issues including substance abuse challenges with the first Americans. And this was in the late seventies. And there was a lot of interest, enthusiasm and dollars that went into trying to address this. And it's been a long time since then. And there are lot of good people like you who have tried to address this problem. And I get sad. I get sad because it's not a lot of money and there are a lot of well-intentioned people that go back a lot of years and we still have this challenge. And so my...it's a difficult discussion for me because I wonder, what's different? I'm sure there have been people like you who are very committed, who have tried to make a difference and have we made a difference over the years or are we where we were back in the late seventies? Or is this small steps in the right direction? And will a detox unit and all the dollars that go towards a detox unit be another good step in that

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direction? [LB1005]

TERRYL BLUE-WHITEEYES: It will be a giant leap forward for the tribe, I mean, for the tribes in South Dakota and possibly Nebraska too. I mean, I'm not certain where the detox centers...I know, like I said, Gordon has a two-bed place at NEPSAC there, but that's, you know, we need a...and I'm sure it would benefit the people of Nebraska to have a detox center. [LB1005]

SENATOR GLOOR: But is this the first time anybody has thought about a detox center? [LB1005]

TERRYL BLUE-WHITEEYES: No, no. [LB1005]

SENATOR GLOOR: And why have they not been successful with detox centers in the past? That's part of my point is I know that there were discussions about the need for detox facilities in the late seventies. [LB1005]

TERRYL BLUE-WHITEEYES: It takes a... [LB1005]

SENATOR GLOOR: And here we are 40 years later,... [LB1005]

TERRYL BLUE-WHITEEYES: It takes a lot of commitment from your staff and you have to have professional medically trained staff. I mean, there's a lot that goes into providing that safe, humane environment for people to start to sober up, because it's a medical emergency when they go into seizures and things like that. So it...you have to...what's different from the seventies until now is that I think a lot of us in the field, we finally, you know, smartened up, got our credentials and put it all in a framework. And we're more focused on what we're doing and keep looking for funding, not being afraid to approach people about...such as yourselves, about the need out there and being able to articulate what's really going on with the Native Americans in this country. I think we've come a long way in that regard. We're no longer saying, you know, we're not losing sight of what we're after. And that's helping our people to live and move forward. We're coming out of grief here, centuries of grief our people have borne into loss I always say. They say pull yourself from...up from your bootstraps. But we don't have boots. We don't have, you know, those kinds of...what if you only wear moccasins? I mean, we're coming from a whole different world trying to fit in here. That takes a lot of time and effort on...sobering up takes, I'm an alcoholic and a drug addict. I've been sober now for 25 years. But if I can do it, anybody can do it. But it takes a commitment too. And I think now we're more focused on what it takes to get it done than we were maybe 30 years ago. I know, I was there 30 years ago so. [LB1005]

SENATOR GLOOR: Thank you. Good luck. [LB1005]

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SENATOR GAY: Senator Wallman has a question. [LB1005]

SENATOR WALLMAN: Thank you, Chairman Gay. Yeah, thanks for coming. [LB1005]

TERRYL BLUE-WHITEEYES: Um-hum. [LB1005]

SENATOR WALLMAN: It's not just exactly a problem for Native Americans. It's a problem for some other cultures also. [LB1005]

TERRYL BLUE-WHITEEYES: Right, um-hum. [LB1005]

SENATOR WALLMAN: And part of it, I think, deals with depression. You know, how do we get out of this hole? We need a ladder to get out. [LB1005]

TERRYL BLUE-WHITEEYES: Um-hum. Right. [LB1005]

SENATOR WALLMAN: Do we have enough job opportunities in that region for, you know, that's part of it? [LB1005]

TERRYL BLUE-WHITEEYES: We're...80 percent of our people are unemployed. So, you know, most of our jobs are tribal jobs or federal-funded program jobs. There's no real revenue that comes into the tribe from businesses or, you know, other outside sources. That's another thing we have to work on. But I think the basic foundation is we have to get our communities healthy. We've got to start with that sobering up. And from where I'm at, in the last 25 years that I've been sober, there has been a marked change in our communities. Maybe we're not showing up on the numbers on the charts, but from where I live and where I sit every day or where I go from community to community there are a large portion of our people now are looking at being sober and being abstinent. Do you know that Native Americans have the most rates, highest rates of abstinence in any ethnic group in the United States? [LB1005]

SENATOR WALLMAN: Wow. [LB1005]

TERRYL BLUE-WHITEEYES: We're always extreme though, you know, we're either highly abstinent or we're not. You know, so we're trying to find that middle ground now. [LB1005]

SENATOR WALLMAN: Thank you. [LB1005]

TERRYL BLUE-WHITEEYES: Um-hum. [LB1005]

SENATOR GAY: Any other questions? Don't see any. Thank you. [LB1005]

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TERRYL BLUE-WHITEEYES: Thank you. [LB1005]

FRANK BEAR KILLER: Good afternoon. My name is Frank Bear Killer, F-r-a-n-k B-e-a-r K-i-l-l-e-r. I reside here in Lincoln. I've been here since 1971. And I've been involved in our own little Indian Center here. I know about the alcohol problems and issues. And I know these are some things that I've been through with my own family. What I want to share with you today is I wanted to talk about my dad, my uncles and my two brothers. My dad is a Korean veteran, he served in the Army. And I resided, kind of grew up in the Chadron area, Chadron, Hemingford, farm boy. My dad was a farmer. My uncle, Sammy, he was a Marine. My uncle, Ralph, he was in the Air Force; Joe, he served in the Army. My younger brother, he was Army. What it was is that as I was growing up and living in Chadron there, I went to Chadron High, one year in Chadron State Teachers College. And during that time I resided there, one of the biggest things that I realized is that you're looking at sources of problems. All my relatives here all served in the services, went in dry people, come back drunks. And that's what my dad said, we're all drunks. We went into the service to learn how to be drinkers. That was the culture to them. So that's one of the things I looked at and considered. And the other thing that I also looked at and also during that time I was in Chadron there was numerous times when my dad, my uncles, all excited, happy, they got their early Christmas presents. There was free beer, free wine, quantities, I mean the wines were like you got one jug that was given to them. A new product, beer, new product, two cases each. It was almost like going to a local grocery store, you find little samples here. That's what it was to them--it was all happy. And some of the products didn't stay around very long, the brand names I never did see after that. But that was one of the contributing factors for our family problem there. And I moved here in '71, I came to Lincoln here about '70. And I interviewed and I hired with IBM. In '71 I brought my family down here. In '73 I went back up to Chadron and I found my dad in the same condition so I grabbed him. I literally kidnapped him and brought him to Lincoln and kept him here, sobered him up. Got him back on the right track. Got him involved with cultural activities. He was happy with that. Stayed with me five years, stayed sober. Then after that he went back up to Allen, back up home. A number of years after that he developed a heart condition because of the long period of drinking. Well, that heart condition eventually got to him, took him away from me. All my other relatives are all passed before me. I'm going to be 62 here pretty soon. All my relatives here are all gone in their early fifties, alcohol related. But I think what you're talking about is a detox center. When I was in Chadron, after the bars closed, I used to get up in the cold, dead winter I used to get up, go look for my dad, my uncles, my brother, making sure that they were off the street, making sure they were secure someplace. That was my job. I took care of my uncles and my brothers that way. And that was one of the biggest things I looked at is that I wish there was a detox center then and there or somebody there that could take care of some of that stuff. I've been through Whiteclay consistently to go back up to grandma's house. I don't like Whiteclay. I don't appreciate the way they treat my people. You know, you're going to pass and raise their taxes, raise their fees. Well, my people are going to be the

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ones paying that. My people are going to be the ones who are going to incur higher costs to them so there is an increase, possibly, in crime rates possibly, theft, you know, those kinds of things happen. I think one of the other big things that I know I suggested to a couple of council members from Pine Ridge, I said, kick everyone out that connects the two towns. You know, piece of dirt, might solve the problem. It would deter some of that. But the suppliers need to be considered as a funding source too. I appreciate your time. [LB1005]

SENATOR GAY: Hold on, Frank. Senator Stuthman. [LB1005]

SENATOR STUTHMAN: Thank you, Senator Gay. Thank you for your testimony, Frank. You know, I truly support, you know, the detox center and everything like that. But in my opinion that's only half of the issue. We have to have a place for these people to go--place of employment after they get sober and get treated for the intoxication. Do you feel that is a part of it too? [LB1005]

FRANK BEAR KILLER: I contributed towards the process. I know that I went through quite a bit, but after bringing my dad here, I think the first 10, 15 days was, excuse the expression, pure hell for me because he went through withdrawal. And he didn't want to go to the detox center. He said, there's no Indians over there. So I kept him at home; I followed directions of the doctor and detox staff. And so not wanting to, I had to go buy him a bottle of wine to kind of nurse him down. But I got him through the process. And I think that something like this here, and I thought about it years afterwards and standing over my uncle's casket, one of the thoughts was, I should have come back for you too. You know, I could have brought you through, I could have helped you. And that's detox, I think that's a way, it's a start process. And once you get them started I think that they can go like my dad did, sober up and get on track. [LB1005]

SENATOR STUTHMAN: You know, and I really appreciate that fact that that's a beginning. But after they're sobered up, don't you think there is a need for a place of employment, a place for activities to keep them off of going back and relapse of alcoholism? [LB1005]

FRANK BEAR KILLER: Yeah, yeah. [LB1005]

SENATOR STUTHMAN: I mean if there's no place for them to go except on the street... [LB1005]

FRANK BEAR KILLER: Once you start to sober somebody up you open up a whole chain of doors. I agree with you. [LB1005]

SENATOR STUTHMAN: Um-hum, um-hum. Yeah, thank you. [LB1005]

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SENATOR GAY: Any other questions? Don't see any. Thank you, Frank. [LB1005]

FRANK BEAR KILLER: Thank you. [LB1005]

MARK VASINA: My name is Mark Vasina, V-a-s-i-n-a. I represent Nebraskans for Peace. And I'm here to extend a very sincere thanks to Senator Karpisek for introducing this bill, and I urge this committee to advance it, amend it as you see fit, advance it and let's get some discussion about this. I think everything that Senator Karpisek said when he introduced the bill is sound. He acknowledges that this is a step, this is not a solution; this is part of a solution. There are many pieces. And I think what's really, really impressive is that I believe this is the first time in ten years, which means the first time ever that a committee of this Legislature has taken this situation so seriously that there's actually questions and give and take from all the people who have been giving testimony, sharing testimony with you. A number of bills, a few bills over the years have come up and I've never seen this kind of attention, so that really deserves praise and thanks. I want to just tell two quick stories to make a couple of points beyond the thanks. Last month, I met here in Lincoln a man who purchased a bar and ran a bar on the north end of Pine Ridge a few years ago. He was from that part of South Dakota. And he bought the bar thinking that it would be an interesting business. He learned within the first few weeks, and he said he'd been to Whiteclay, and he saw nothing in his establishment like he sees in Whiteclay. But he knew within the first few weeks that he was in a terrible business and he immediately turned around and sold it. He told me that the person who bought it very quickly also converted the establishment from a bar into a garage. He was a mechanic and used the facility for something else. The point of this is that I think that a sensible, humane...it doesn't even have to be a super moral type of person, who engages in the business of preying upon the alcohol disease of some members of the Oglala-Lakota in Whiteclay. We don't have to defend those people. People who have any litmus test of decency recognize that that's not the way to run a business. And I don't think it's important for liquor lobbyists or senators or liquor commissioners, or whatever, to defend the people who are selling the alcohol in Whiteclay on the grounds that these are legal businesses, they haven't been legally convicted of anything to close them down. There are reasons for that, that don't have anything to do with whether they are breaking the law or not. Actually, another Oglala-Lakota friend of mine who moved to Lincoln about a year ago, I would like to bring him around to some of your offices. He spent some time in Whiteclay. He's been sober now and he and his wife, for a year and a half, they moved to Lincoln. He could describe for you in detail what goes on in and around the liquor stores in Whiteclay, the EBT card fraud, the prostitution and pandering, the exchange of drugs for beer, the exchange of stolen goods for beer, all of these things go on. And the fact that the State Patrol or the county sheriff can't find the evidence to convict is not proof that it doesn't go on. The last point I want to make or the last story is just to recognize that this issue is much bigger than this bill. Cleaning up Whiteclay isn't just a matter of tearing down dilapidated buildings and keeping the streets swept. I think a good comparison to think

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about would be what New York City did about 15...began about 15 years ago in New York City with Times Square. I'm sure everybody knows what Times Square is, the legacy of Times Square, the seedy bars, the porno shops, peep shows, all legal businesses run and operated in a section of New York City. And everyone understands that behind all that is terrible stories of alcoholism, drug abuse, prostitution, sales of drugs. Nobody believes that the people operating many of these stores don't have connections to organized crime, whatever. Yet these businesses were legal; they couldn't be closed down if you didn't want to close them down. Starting in around 1996, the mayor and a group of citizens in the city got together and formed a Times Square improvement district. And they went after Times Square; you bring new businesses in by getting rid of the illegal and decrepit and degenerative businesses that are there. Times Square is now, I read last month, the number one tourist destination. You have family-friendly hotels that are there, family-friendly businesses. It's nothing at all like the old Times Square. Those businesses were closed, eminent domain, police actions that were focused, they moved the bad out and moved in the good. When you talk about economic development, Whiteclay is a perfect site for a retail hub, a tourist hub, a very important location. You can't do that as long as you've got these illegal activities by these illegal purveyors of alcohol in Whiteclay. So I urge you to look at the big picture. By all means, a detox center, spend money on treatment, spend money on rehab, spend money on education. But look at the big picture. And whatever happens this year in the Legislature, don't let this issue die. I mean this is a crime that's been going on for years and Nebraskans are tolerating it if not participating in it directly. [LB1005]

SENATOR GAY: Thank you. Any questions? Senator Wallman. [LB1005]

SENATOR WALLMAN: Thank you, Chairman Gay. Welcome to this committee. [LB1005]

MARK VASINA: Thank you, Senator. [LB1005]

SENATOR WALLMAN: Is my good friend, Mr. Tilly still going, Don Tilly? Do you know him? [LB1005]

MARK VASINA: Oh sure, yeah, sure. He's still going. He's still kicking. [LB1005]

SENATOR WALLMAN: Okay, good. Thanks for coming. [LB1005]

MARK VASINA: Sure, you bet. Thank you very much. [LB1005]

SENATOR GAY: All right, thank you. Thank you. [LB1005]

MARK VASINA: Thank you. [LB1005]

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FRANK LAMERE: Well, Mr. Chairman, members of the committee, and just to wish a good afternoon to all of you and a special greeting to Senator Howard. I have not seen her for a while. There is so much to be said in so little time. [LB1005]

SENATOR GAY: Can you state your name and spell it out for us? [LB1005]

FRANK LAMERE: Frank LaMere, L-a-M-e-r-e. I am from South Sioux City, Nebraska, and a member of the Winnebago Tribe of Nebraska, and long been involved with the issue at Whiteclay. As I was listening to some of the testimony and some of the history that everybody was sharing with you about this debacle, I kind of hearken back to the fact that I was arrested there on July 3, 1999, and I'm a Nebraskan. And I was arrested that day marching with 2,500 of our Oglala-Lakota relatives who came to Whiteclay and to Nebraska because they wanted to make themselves well. They wanted to sober the people up. And Nebraska should have given us awards that day, but they arrested us. And I think about that time and I think how far we've come because, as Mr. Vasina has said, you know, we have a committee here dealing realistically and honestly with an issue that has plagued us as Nebraskans for a goodly number of years, and it certainly has. I would be remiss if I did not thank the Oglala-Lakota relatives for continuing to have trust in the system, have trust in us as Nebraskans that we would treat them as neighbors respectfully, and I'm glad that a number of them braved the weather and came over here today. You know, there's so much to be shared. But I need to share something with you as Nebraskans today. On the 26th and 27th of February, this documentary, "The Battle for Whiteclay," that was produced by Mr. Vasina, is going to be shown at, of all places, at Mt. Sinai Hospital in New York City. They are having a global conference on indigenous health and they're going to look at issues of North America and the impact of alcohol and substance abuse on all of our nations. I was thinking about that today. I look forward to it, I will be there. And where there have been a number of gatherings like this, but I want to share with you as Nebraskans that when we go there that day to see all of these professionals from around the country, New York City, they're going to be critical of us. They are going to ask, what is the matter with you? What is the matter with your state that you would tolerate this for so long? And as a Nebraskan, I'm going to be defensive because that's the way we are, as Nebraskans that's the way we are. We're going to be talking about how hopeful we remain, and we, indeed, remain hopeful that things can happen from LB1005 and whatever comes after this. You know, I want to share with you that very important, when we had a strategy meeting a number of months ago with the good senator who brought this bill forward, we had a meeting. And we offered up a prayer at that time. And we invoked the help of Tunkaschila, invoked the help of Miula (phonetic) that he would watch over this and what we're doing. And I would say this to my Oglala relatives because they would understand that we have come to know that some good will come of this. That has been foretold. I don't know what that means. And Tunkaschila does not deal in days and weeks and bills and referendums. But we have come to know that some good will come from this, but we have got to take that first step. And I think as

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Nebraskans we wish to do that. I want to share just one other thing with you about Nebraskans before I leave. A number of years ago, we dealt with this issue at one of our Nebraska universities. And we had a large group of people asking questions about Whiteclay. And there was an elder white gentleman asked me the toughest question I have ever had in my life. He said, Mr. LaMere, I'm aware of that day in 1999, can you tell me about that? I said, well certainly. It was hot, terribly hot, a lot of tension, you could feel it. And he said, yeah, I understand that. But I want to know, what did you...when you made that...when you walked across that line and how did you feel? And what was the reason for that? And I didn't understand his line of questioning. And it was only maybe months and years later that I really understood what he was saying. And so later in life, I've tried to answer that question. We came to that line on the border. And he asked that question, what would have happened had you not taken that step from here to here? He asked me that question, what would have happened had you not taken that step from here to here? I didn't answer him. But later on I came to understand the essence of this elder white gentleman, who's probably gone now, but it was the most important question ever asked. And it's a challenge to us because I do know the answer to that. That had we not taken that step that day from here to here, the issue would have died right there. We wouldn't be here, because that person who had so much feeling about the issue didn't have the nerve. And I'm glad we did that day. And we all are going to be called upon through this process of dealing with issues at Whiteclay to take that step from here to here. And that's what I want to share with you. And why did you take that step? Because I'm a Nebraskan and that's what we do. And I ask you, I implore you to think about these things as we move forward. Good will come from it. And I hope that you move this out of committee and that you work with it and you make something happen. You have elevated the discussion. We could have gone away years ago. This is...it's taken on a life of its own. Now there's critical mass. Frank can walk away from this for good; others can walk away. It's here because Nebraskans are good people. Sometimes we take a little longer, but we always do it right. And we always take that step, a challenge to you. Thank you very much. [LB1005]

SENATOR GAY: Any questions? I don't see any. Thank you. [LB1005]

FRANK LAMERE: Okay, thank you. [LB1005]

SENATOR GAY: Any other proponents? Any opponents? Anyone neutral? Senator Karpisek, you want to close on this? [LB1005]

SENATOR KARPISEK: Thank you, Senator Gay and members of the committee. I would really like to thank everyone who came to testify. It is a long trip. They're stepping up, helping. I would be...we talked about the \$250,000 for one time. It's a lot of money, but it's not a lot of money. I would be more than happy if it could be appropriated for numerous years. I feel we have a tough row to hoe getting this one time. I think that...I don't think it's going to be easy out on the floor, if we can get that far, to get it.

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Everything is tight, it's tough. In my opinion, this should have been done long ago, but that doesn't mean not to do it now. So I would love to. I guess, we'll see how things go, how this goes, how the system works. I'm sure that Ms. gaiashkibos is going to do great work. I'm excited, I think that is really the right avenue to go. And believe me, I really pondered that for a long time. Senator Stuthman talked about the jobs. Senator, you are absolutely right. We have to have things for them to do and money to make. Senator Coash again and Attorney General Bruning are working on some grants. Some of it is just cleaning the town up. And, of course, that doesn't fix it, it helps. But hopefully, to...talking with Bruce BonFleur about getting some grant money and trying to start a recycling center. God knows, if there's all those cans going through there they should be having a good business (laughter). So that, hopefully, can take off. Again, there's many people there, many people that have been here today that go there and help. And so, hopefully, we can get something rolling. And the jobs, I've heard people on the other side of the border say they are going to get jobs going. You know, hopefully, but you are right. I do agree that there are illegal activities going on in Whiteclay. The EBT fraud, the food stamp card, buy things somewhere, bring it back, sell it to people for pennies on the dollar so they can have beer money. The State Patrol has done some investigations, didn't find anything. However, these investigations have been...it's not easy to sneak up out there. I'll tell you, I've been there a couple of times. And everybody knows you're coming. Everything gets kind of squared away, straightened up. Also, you can't sneak anyone else in either. I know one of the times they brought a young woman from a tribe in Minnesota. They knew right away, I'm sure, who this person was. There's not that many people. There are 14 people in Whiteclay, however, maybe 3,500 in the town of Pine Ridge. But there was a...she asked...said she didn't have money for the beer. They said, well, you can come pay tomorrow, which is illegal. They were after, hoping maybe prostitution. Didn't get that. But there hasn't been that much. And hopefully again, get the ball rolling, clean it up a little bit and these things won't happen as much. Money is tight, too, for the State Patrol. It's tough and again it's kind of in the middle of nowhere to going somewhere. It's a beautiful place if you don't watch...focus in on Whiteclay. But those are some of the issues. Again, I know this isn't the total answer. I appreciate everyone for being here. I appreciate your listening in, and hope that we can move this out and try to get things started on the right track for the people there. Thank you. [LB1005]

SENATOR GAY: Thank you, Senator Karpisek. Senator Howard. [LB1005]

SENATOR HOWARD: Thank you, Chairman Gay. Thank you, Chairman Gay. You deserve a lot of credit for working on this issue. There's been a lot of people over a long period of time, and others such as Mark, that deserve so much credit. But you've really taken hold of this. And not only did you bring in a bill that addresses it, you also worked, and you and I have talked over the summer, and ongoing about jacking up the liquor fees, increasing the liquor fees so that there would be funding that would be available for this. And I think that's absolutely the right way to use that money that will come into

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the state. It's not being paid for by people who are living here, it's in the beer distribution fee. That's very righteous as far as I'm concerned. So I just want to say thank you so much for doing this. [LB1005]

SENATOR KARPISEK: Well, thank you, Senator Howard. I think it is a...something needs to be done. Am I the right person to do it? Probably when you started looking at it, no. I'm no teetotaler and I like my beer just as much as anyone. Maybe I can relate to some of their issues, I think. And, hey, I just think it's time to do something. The tribe needs to buy into this too. Another reason why the Indian Commission is so important--these people need to buy into this. It won't help...it doesn't help for us to jam something out there that's not going to work, absolutely not. We all know that, how it works around here; it doesn't work. So we do need them to buy in. We need them to help and be an active partner. Again, we've heard everybody pushing the blame around...it's your fault, it's your fault. Very seldom has anyone really said it's my fault. Let's say it's nobody's fault, let's not care about whose fault it is, but let's just try to work on it. It's not going to happen overnight, it's not going to be cheap, but let's start on it. Thank you. [LB1005]

SENATOR HOWARD: Well, let's move off having Whiteclay be the dirty little secret and start to do something about the problems. Thank you. [LB1005]

SENATOR KARPISEK: Thank you. [LB1005]

SENATOR GAY: (Exhibit 2) Any other questions? I don't see any. Thank you, Senator Karpisek. [LB1005]

SENATOR KARPISEK: Thank you. [LB1005]

SENATOR GAY: That will close public testimony on LB1005. And we'll have an Executive Session at 4:00. [LB1005]