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Banking, Commerce and Insurance Committee  
February 08, 2010

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[LB759 LB760 LB1068 LB1074]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, February 8, 2010, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB759, LB760, LB1068, and LB1074. Senators present: Pete Pirsch, Vice Chairperson; Mark Christensen; Mike Gloor; Chris Langemeier; Beau McCoy; Dave Pankonin; and Dennis Utter. Senators absent: Rich Pahls. []

SENATOR PIRSCH: Well, it's after 1:30 so we'll get started here. Welcome to the Banking, Commerce and Insurance Committee hearing. My name is Pete Pirsch, I'm from Omaha, represent the 4th Legislative District. I serve as Vice Chair of the committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceeding, I ask that you abide by the following procedures. The information is posted on the chart to your left. If you would please turn off your cell phones, move to the reserved chairs up front if you are going to testify. Order of testimony is going to be the introducing senator, then proponents followed by opponents, then neutral testifiers and finally, the senator will close. Testifiers, if you could please sign in; hand your sign-in sheet to the committee clerk when you come up to testify--that's Janice Foster over there. If you're looking for the form, they're on that table to the back left of the room here. Spell your name for the record as you come up and testify. Please be concise. Written materials may be distributed to committee members as exhibits only while testimony is being offered, handed to the page for distribution to the committee and staff. We'll need ten copies. If you have written testimonies but don't have ten copies, raise your hand now if you would, so the page can make some copies for you and have it ready to go. To my immediate left is committee counsel, Bill Marienau. To my left at the end of the table is the committee clerk, Jan Foster. The committee members with us today, if they'll introduce themselves, starting at my right, your far left. []

SENATOR UTTER: I'm Dennis Utter from District 33, Hastings. []

SENATOR PANKONIN: I'm Dave Pankonin, District 2; I live in Louisville. []

SENATOR LANGEMEIER: Chris Langemeier, District 23; I live at Schuyler. []

SENATOR McCOY: Beau McCoy, District 39, Elkhorn. []

SENATOR GLOOR: Mike Gloor, District 35, Grand Island. []

SENATOR CHRISTENSEN: Mark Christensen, District 44, Imperial. []

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SENATOR PIRSCH: Okay. And our pages today are Abigail Greene from Omaha and Alex DeBrie from Scottsbluff. The committee will take up the bills today in the following order: We'll start with LB759. Senator Wightman will be introducing that as well as we'll follow that with LB760, Senator Wightman again, and we'll move to LB1068; Senator Hansen is the sponsor. And then LB1074; Senator Mello is the sponsor of that. That being said, we will now start the hearing with respect to LB759. Senator Wightman, if you take it away. []

SENATOR WIGHTMAN: Thank you, Vice Chairman Pirsch, members of the Banking Committee. I am John Wightman, represent District 36. LB759 would amend the Nebraska Professional Corporation Act to provide a procedure for winding down and dissolving a single-person professional corporation. The bill was brought to me by representatives of the Nebraska State Bar Association to address a problem in existing law. The Nebraska Professional Corporation Act allows attorneys, accountants, dentists, real estate agents, veterinarians, or doctors to incorporate their practice as a corporation to provide professional services. In many cases, the professional is a single stockholder or because of the death of other professional shareholders, one professional may become a single shareholder. Upon the death of that single shareholder or in some instances, a final shareholder, under current law there is no shareholder who is a professional that remains. Thus, no shareholder exists to dissolve the practice. LB759 proposes a solution to this problem. LB759 will grant authority to a nonlicensed professional to assume that position for the sole purpose of winding up a business upon the death of the last remaining shareholder of a professional corporation. The successor in interest to the last remaining shareholder of a professional corporation is granted authority to wind up and liquidate the business and affairs even when such successor and interest could not have become a shareholder in the professional corporation because they weren't a member of that particular profession. Unless we amend the law, there is no provision that would allow this, so it really is a fairly simple, and I think absolutely a commonsense provision that we would be adopting that would just allow a nonprofessional in that particular profession; a nonmember of that profession to file, to be elected for the purpose of winding down or dissolving the business. Now there will be members who will speak after me that can perhaps answer your questions better than I, but I certainly will try to answer any questions you might have in this regard. [LB759]

SENATOR PIRSCH: Great. Any questions? Senator Utter. [LB759]

SENATOR UTTER: Thank you, Senator Pirsch. Senator Wightman, did you just bring this to this committee because you thought we were easy? [LB759]

SENATOR WIGHTMAN: Well, I just thought that you were a nice outfit, and I hadn't been before you many times before. [LB759]

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SENATOR UTTER: I see. Okay, thank you. [LB759]

SENATOR PIRSCH: I see, yeah. Senator Pankonin. [LB759]

SENATOR PANKONIN: Thank you, Senator Pirsch. Senator Wightman, I think this is an interesting concept. We've got a couple of questions for you. First of all, how did you learn of this or did someone bring this to you to...? [LB759]

SENATOR WIGHTMAN: It was brought to me by the bar association. [LB759]

SENATOR PANKONIN: Okay. In your knowledge, professional corporations...I would assume that's like doctors, attorneys, other...accountants. And when you say nonprofessionals, so that means a nonprofessional in that field. [LB759]

SENATOR WIGHTMAN: Right. [LB759]

SENATOR PANKONIN: In other words, if you had a doctor's professional corporation, and you got down to the last, you couldn't dissolve it, an attorney could be involved in doing that, right? [LB759]

SENATOR WIGHTMAN: Right. But they wouldn't have been an initial shareholder and would have no interest, though sometimes it might be easier for a personal representative of the decedent's estate to actually handle this matter which I think in most instances could be done very easily because all they would be doing is filing a few financial documents showing what the assets and liabilities of the corporation would be. [LB759]

SENATOR PANKONIN: So what happens in a standard C Corporation with these same types of things? A lot of businesses out there have a single, or it could be down to the last shareholder. When they dissolve, does a court appoint someone to...or if they don't have any provision for it, could we have the same situation for private, nonprofessional corporations? [LB759]

SENATOR WIGHTMAN: You could, but you wouldn't have the problem that you have here in that only a professional of that particular profession can be a shareholder. [LB759]

SENATOR PANKONIN: Okay. [LB759]

SENATOR WIGHTMAN: So it would be easy enough in a C Corporation...a regular C Corporation to find somebody who would be qualified to act on that behalf and could be elected. In that instance, a personal representative probably succeeds to the chairs and could... [LB759]

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SENATOR PANKONIN: And then makes the determination to...to dissolve or whatever. [LB759]

SENATOR WIGHTMAN: Right. [LB759]

SENATOR PANKONIN: Okay. Well, thanks for your answers. [LB759]

SENATOR PIRSCH: Are there any other questions? Seeing none, thank you for your opening, Senator Wightman. We will move on to proponents. Are there any proponents here today wishing to testify on behalf of LB759? Thank you. [LB759]

CHRISTINA BALL: Mr. Chairman and members of the committee, I'm Christina Ball, B-a-I-I, an attorney with the Baylor Evnen law firm here in Lincoln. I've been practicing in the estate planning and business planning area for about ten years including estate administration. This issue comes up because we've found, in essence, a gap in the statutes. Just as Senator Wightman explained, in order to vote the shares of a corporation under the Professional Corporation Act, the member must be licensed in that particular field whether it's medical, legal, dental, or otherwise. So a personal representative...if the personal representative happens to be an attorney, for instance, they may vote the shares and elect officers and directors to continue to wind up the affairs of the entity. In many cases, however, especially with the sole remaining stockholder, their personal representative may be a spouse who's not qualified to vote the shares, so this is merely a gap that we're trying to close on the statutes. It's my understanding the Secretary of State's Office has permitted certain filings. Again, there's not statutory authority. You may not file articles of dissolution without shareholder consent and, again, the shareholder has to be licensed in the particular area. So we're asking that you all consider adopting this, and closing the gap. [LB759]

SENATOR PIRSCH: Senator Utter. [LB759]

SENATOR UTTER: Well, thank you, Senator Pirsch. Senator Wightman kind of ducked my (laugh) facetious question, I guess. But I am kind of interested in what this bill is doing before the Banking, Commerce and Insurance Committee, and why it isn't in Judiciary. [LB759]

CHRISTINA BALL: May I duck that question as well? (Laughter) [LB759]

SENATOR PIRSCH: Well put. [LB759]

SENATOR UTTER: I'll accept that answer. [LB759]

SENATOR PIRSCH: Great. Any other questions? Senator Langemeier. [LB759]

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SENATOR LANGEMEIER: Thank you. As being sitting on this committee for six years, we get these kind of bills all the time, anything that requires filing and that, so that's not unusual. Ms. Ball, but my question is, is why today? I mean, obviously, for years and years you've been finding a doctor to close out a doctor's personal corporation. You've been finding a CPA which is probably easier than finding a doctor to take a doctor's but you've been finding...why today? What brought it today to...? [LB759]

CHRISTINA BALL: We had an interesting case relatively recently. It was the death of a final shareholder in a PC whose corporation had been administratively dissolved for nonpayment of biennial taxes and nonfiling of the report that's required by the Supreme Court evidencing that you have the correct amount of malpractice insurance and those type of things, so an administrative dissolution is not that big of a deal except in this situation we had real estate that was still titled in the name of the professional corporation with the individual whose corporation it was now being deceased, and whose personal representative not qualifying to vote the shares and reinstitute or revive the corporation which we were able to do with certain filings with the Secretary of State. Statutorily, they were not correct. [LB759]

SENATOR LANGEMEIER: Okay. Very good. Thank you. [LB759]

SENATOR PIRSCH: Okay. Yes, Senator Gloor. [LB759]

SENATOR GLOOR: Thank you, (Vice) Chairman Pirsch. Ms. Ball, who makes the assignment of this professional? I mean, how is the determination made that this is the professional who is going to be authorized to do this? [LB759]

CHRISTINA BALL: The personal representative is generally nominated in the will of the decedent, the professional. There are some attorneys who are more familiar with this section, and so if they are a single member or a single shareholder professional corporation, they may have some caveats in their will, particularly nominating another attorney to come in and wind up the corporation. We are just finding that there are a lot of people that are not making those provisions in their own estate plans, so if they don't have an estate plan, intestate succession applies; statutory priority for appointment of a personal representative, it's generally the surviving spouse. [LB759]

SENATOR GLOOR: Okay, and that would qualify? [LB759]

CHRISTINA BALL: Under this statutory gap, no, but with a fix, yes, it would because then the personal representative would be able to vote the shares to nominate qualified persons if there really is still transactions that need to take place... [LB759]

SENATOR GLOOR: Okay. [LB759]

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CHRISTINA BALL: ...to come in and wind up the affairs. If it's just to deed-out real estate, they may do that and then dissolve the corporation. [LB759]

SENATOR GLOOR: Okay. Thank you. [LB759]

CHRISTINA BALL: Um-hum. [LB759]

SENATOR PIRSCH: I appreciate that and because the nature of the bill calls for amending the Professional Corporations Act, that dent...by dent of that alone would...typically gives this committee jurisdiction over any bill or at least historically has. So I don't have any questions...problems with it being... [LB759]

CHRISTINA BALL: Thank you for not ducking his question. (Laugh) [LB759]

SENATOR PIRSCH: Yeah. No, and the...I guess the long and the short of it is right now accommodations and kind of informal back and forth between the Secretary of State, but statutorily speaking, it's kind of an awkward legal condition that people find themselves in that doesn't seem to have a remedy, and so we're clearly putting in a path to handle that. [LB759]

CHRISTINA BALL: Absolutely. [LB759]

SENATOR PIRSCH: Okay. Thank you for your testimony here today and...well, let me ask. Are there any other questions? Seeing none, we'll move on to the next proponent. Are there any other proponents? Seeing none, we'll move on to opponents. Are there any opponents here today? Okay. Anyone who wishes to testify in a neutral capacity? Seeing none, Senator Wightman, we'll ask you to close if you'd like. [LB759]

SENATOR WIGHTMAN: Well, I'll close with just a few words, but I will open on the other if I'm allowed to do so while I sit here. [LB759]

SENATOR PIRSCH: You sure can. Yep, you bet. [LB759]

SENATOR WIGHTMAN: I might try to answer Senator Utter's question. I think it's already been pretty much answered, but the usual reason that they get...a particular bill gets referred to a committee is that that's what the drafter of the bill looks at the history and that type of bill. And unless somebody on the executive board...a referencing board objects to that, that's where it gets referenced. And so, you know, it was a good committee and so nobody objected to it being referred to this committee. [LB759]

SENATOR UTTER: You'd probably had a hard time getting it through Judiciary (inaudible)... [LB759]

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SENATOR WIGHTMAN: Well, could have (laughter). [LB759]

SENATOR PIRSCH: Senator Utter, very good. Well,... [LB759]

SENATOR WIGHTMAN: That finishes my close (laughter). [LB759]

SENATOR PIRSCH: Very good. Well, we'll have you (laugh)...I like the succinct nature of that. LB760 is another bill that you've introduced or do you want to open on that? [LB759]

SENATOR WIGHTMAN: Yes. Again, Vice Chairman Pirsch, members of the Banking, Commerce and Insurance Committee, I'm John Wightman, representing the 36th district. LB760 would make some changes in the trust law of Nebraska. The Nebraska Principal and Income Act is a compilation of default procedures for trustees administering trusts and personal representatives administering estates and allocating assets to principal and income, and to govern their proper distribution to beneficiaries, heirs, and devisees. To the extent the controlling document is silent, fiduciaries...it's going to be trustees or personal representatives can utilize these statutes for direction. LB760 will update the Nebraska law and make it consistent with U.S. Department of Treasury regulations. Historically, trustees were required to distribute the net income generated by marital deduction trusts to surviving spouses in order to qualify for an estate tax marital deduction. And there had to be a provision that the spouse was entitled to all the income from that trust. The U.S. Department of the Treasury regulations were updated to permit trustees to pay a set percentage of the marital deduction trust assets in lieu of the requirement to distribute the net income. The bill changes the Nebraska Principal and Income Act by deleting the requirement to distribute the entire net income in a marital deduction trust. The trustee will be given another option for distribution of the income of these trusts. And what we're dealing here are trusts that are sometimes referred to as total return trusts or unitrusts. And in order to maximize a return on investments, it was felt several years ago that you needed to have a right to perhaps invest in mutual funds, to invest in equities that sometimes did not provide a great income but were more growth oriented, so you were sacrificing the income of the surviving spouse. And so we developed...and I can't tell you what year it was, a total return trust that the trustee could make a decision to distribute a percentage of the total assets of the trust at the end of the year. I think it's done on a three-year rolling average, and so there could be a lot of growth that way and in the long run. The widow or widower, the spouse could get a larger income maybe down the road because there was a lot of growth in these assets. Otherwise, they pretty much had to satisfy the spouse and look at higher income assets, so there might not be much growth. Under current law, trustees of this marital deduction trust can administratively elect, convert these net income trusts to total return trusts, which are the ones I'm talking about, that maybe there's more of an interest in investing in long-term growth assets. Under

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LB760, a beneficiary spouse of a trust for which the marital deduction has been taken would now be able to compel the trustee to reconvert the trust from a total return trust back to an income trust. So the beneficiary is given a new option if LB760 advances or is passed by Legislature. The bill also deletes the prohibition against changing a net income distribution provision in an exempt generation-skipping trust if the trustee elects to convert such a trust to a total return trust. The treasury regulations now state that a trust will not lose its generation-skipping exempt status merely because the trustee elects to convert a net income trust to one that pays out a unitrust amount, and therefore, the current Nebraska statutory prohibition is no longer current with federal regulations. This change will allow the trustee another distribution option. In summary, LB760 makes three changes in the Nebraska Principal Income Act that are now permitted by changes in federal regulations. These changes allow more options to trustees and beneficiaries in the administration of estates and trusts that best meet their needs. Again, there will be a speaker that is certainly more knowledgeable than I am with regard to total return trusts and unitrusts that can probably better answer your questions than I. But, again, I will take a crack at any that any of the members of the committee may have. [LB760]

SENATOR PIRSCH: Thank you, Senator. Any questions right now for Senator Wightman? Seeing none then, we'll move on to the first proponent. Is anyone here to testify in favor of LB760? [LB760]

JOHN ATKINS: My name is John Atkins, A-t-k-i-n-s. I am a trust officer with Union Bank and Trust Company. I'm an attorney by education but trust officer by occupation, and I want to thank Senator Wightman for introducing this bill, and I am testifying on behalf of the Nebraska State Bar Association. To follow up on a question that was asked in the previous legislative bill, I actually started this process a number of years ago because I saw a discrepancy that should be corrected while I was administering a total return trust that actually had elected unitrust status. I feel this is...it's not a compliance issue. It's an issue that actually helps in administration. As Senator Wightman said, you basically have a unitrust which benefits a surviving spouse, in this instance, in a marital deduction trust by giving him or her a percentage of the average value of the assets in that trust. And historically, even through 2009, that percentage has actually been greater than the net income that has been earned. What this does effectively is it allows the fiduciary who was ever administering the unitrust not to have to go back and compare what was paid out in any one particular year to the net income that was earned in that year. I think that gives rise to the possibility of error if a fiduciary is required to make that determination. I actually have been administering total return marital deduction unitrusts as part of my professional occupation. And I feel it is a necessary action on the part of the Unicameral, and I have based my suggested statutory amendment on Delaware which has been fairly up-front with the legislative process in making changes to their principal and income act. And, in fact, I'm offering the same legislative provision that Delaware enacted a number of years ago. I really have no other comments to make, but



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I would be delighted to answer any of your questions. [LB760]

SENATOR PIRSCH: Thank you. Are there any questions for Mr. Atkins? Yes, Senator Pankonin. [LB760]

SENATOR PANKONIN: Thank you, Senator Pirsch. Sir, you found this to be an issue when you were doing some trust administration. How did you find out about Delaware? Is there an association nationally you did some research on about a solution for this or how did this kind of come about? [LB760]

JOHN ATKINS: I am a member of the American Bar Association's committee on real property probate and trust, and general counsel to the Wilmington Trust Company has authored a number of articles in this area. It's been of particular interest to the National Law Commissioners, and I just did reading in this area and took it upon myself to...well, first of all, to administer a unitrust in Nebraska, you need to comply with the Nebraska Uniform Principal and Income Act. And we have this provision in there currently that makes us pay the income out. So as I was reading, I saw what Delaware did and how they addressed the issue and felt there wouldn't be any particular reason why Nebraska should not do likewise. [LB760]

SENATOR PANKONIN: Follow-up question, do you know of...have other states besides Delaware done this? [LB760]

JOHN ATKINS: Missouri, Pennsylvania, New York, a number of others. [LB760]

SENATOR PANKONIN: A number of others. Okay. Thank you. [LB760]

SENATOR PIRSCH: Any other questions? Okay, seeing none, thank you for your testimony here today. And I will just ask if there is any other proponents of LB760? Good afternoon. [LB760]

JERRY STILMOCK: Good afternoon, Senators. My name is Jerry, J-e-r-r-y Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of the Nebraska Bankers Association lending our support as well to LB760. The comments that have been given are...I cannot expand on the comments that were already given other than to say, it's just an opportunity for Nebraska to bring in line with the IRS and its regulations have already authorized. And we'd urge the committee to advance (LB)760 to the floor. Thank you. [LB760]

SENATOR PIRSCH: Thank you. Any questions? Seeing none, thank you very much, Jerry, for coming down. Are there other proponents of LB760? Seeing none, we'll move on to opponents. Anyone here to testify against LB760? Seeing none, any who wish to testify in a neutral capacity? Very good. Senator Wightman, would you... [LB760]

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SENATOR WIGHTMAN: I'll waive. [LB760]

SENATOR PIRSCH: He'll waive his closing. That will conclude our hearing on LB760 then, and we will move on to our third bill today, LB1068. Senator Hansen is here, I understand. Senator Hansen, good afternoon. You are clear to open. [LB760]

SENATOR HANSEN: Thank you. Good afternoon, Senator Pirsch and members of the Banking, Commerce and Insurance Committee. My name is Tom Hansen. That's T-o-m H-a-n-s-e-n, representing District 42. LB1068 will help promote economic development in rural areas of the state by assisting any tourism business with the financial opportunity to start and maintain an agritourism or an ecotourism or other rural tourism businesses in Nebraska. LB1068 creates the Rural Tourism Development Act. The act includes definitions of agritourism, ecotourism, and what determines a small tourism business. Agritourism means travel to a tourist destination that combines traditional agricultural production and tourism. Ecotourism means the responsible travel to natural areas which conserves the environment and improves the welfare of the local people. The small tourism business means an entity or an individual that derives or anticipates deriving a net income of not more than \$2 million from a rural tourism business. LB1068 creates a rural tourism program which will be administered by the Department of Economic Development. Under the provisions of the program, a small tourism business qualifies for assistance if they are located in a county with a population of less than 100,000. The business must provide proof that it has available at least 10 percent of the expenditures of the business. The Department of Economic Development may require changes of the business plan if those changes could make the business viable under criteria determined by the Department of Economic Development. If it is determined that the business is viable, DED can loan the small tourism business up to 40 percent of the total cost of such business venture, up to \$500,000. A small tourism business loan can be made up to five years with a zero percent interest rate. LB1068 creates the Rural Tourism Development Fund. On July 1, 2010 and July 1, 2011, the State Treasurer shall transfer \$500,000 from the local civic, cultural, and convention center financing fund to the rural tourism development fund. The Legislature shall appropriate five percent of the balance of the fund annually for administrative expenses to the Department of Economic Development. They will carry out the provisions of the act. On December 1, 2011, and every two years after that, the department shall submit a report to the Governor, the Clerk of the Legislature, and the legislative Fiscal Analyst, documenting approved loans. Any loan defaulting after the due date shall become a lien on the property of the small business. The Department of Economic Development shall develop rules and regulations to carry out the Rural Tourism Development Act. An emergency clause has been added, so the fund can be transferred by the July 1, 2010 time frame. Thank you, and I'd be happy to answer questions. [LB1068]

SENATOR PIRSCH: Very good. Are there questions? Senator Langemeier. [LB1068]

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SENATOR LANGEMEIER: Senator Hansen, thank you...thank you very much for your testimony. Where does the money come from for the local civic, cultural, and convention center funding...financing fund? Excuse me. [LB1068]

SENATOR HANSEN: Okay. It comes from the...that fund is what the...started out as the Qwest Center, and they asked for a sales tax exemption that they keep to pay for the Qwest fund, and I wasn't here when they passed that; you may have been. But they asked...in order to get enough votes for it, they said, well, 30 percent of these funds will go back to rural districts. And at the time it was set up, it was set up just to build civic centers, community civic centers. Several of those have been built. Senator Ashford, in one of his bills, if you remember, handed out this handout and said that these are the community centers that have really helped, you know, the communities. But there is a...seems like the demand for those community centers is waning, and money from the Qwest Center right now is beginning to pile up, and we were looking for a fund to go back into rural tourism, and this looked like a logical place. [LB1068]

SENATOR LANGEMEIER: Would it be possible just to expand that definition of what that 33 percent of funding could be used for versus starting another fund to transfer into? [LB1068]

SENATOR HANSEN: We could certainly look into it. I didn't...I haven't asked DED. They suggested...they were the ones that suggested taking it out of that fund and creating a new act just for rural tourism. [LB1068]

SENATOR LANGEMEIER: Okay. Thank you. [LB1068]

SENATOR HANSEN: Um-hum. [LB1068]

SENATOR PIRSCH: Yes, Senator Utter. [LB1068]

SENATOR UTTER: Thank you, Senator Pirsch. Senator Hansen, how much total money is in the rural (inaudible) that fund? [LB1068]

SENATOR HANSEN: At least \$1,700,000. [LB1068]

SENATOR UTTER: And so we're going to transfer...the bill is going to...if I understand you right, is going to transfer \$500,000 out for this specific purpose. And so that leaves another million dollars. What's going to ultimately happen to the other million dollars? Is that the bill the community centers and...? [LB1068]

SENATOR HANSEN: There still will be some left in there, but in 2010, July 1, 2010, we intend to take...transfer \$500,000 out this year and, again, in 2011, so there will be a million dollars transferred to this rural development...or Rural Tourism Development

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Fund. So it will be...there will still be \$700,000 left in there for community centers, but you still have to remember that the Qwest Center actively is...I mean, they're on their feet; they're growing. They're doing concerts and rodeos and ball games and that fund just continues to come up, and that's at 30 percent level. I think it's 30 percent...30/70 and not 33 which makes a little difference, but...and then Lincoln is looking at a convention center. They're building it on the same premise as this, so there will be 30 percent of that fund readily available for some type of rural economic development. [LB1068]

SENATOR UTTER: Somebody in the Department of Economic Development is now administering this \$1,750,000 or whatever it is. Would that be correct? [LB1068]

SENATOR HANSEN: That's correct. [LB1068]

SENATOR UTTER: Why not that same following with Senator Langemeier's question? Why does that same individual that's administering that fund continue to administer this portion of it and eliminate the need of another half-time person? [LB1068]

SENATOR HANSEN: That's a great question. That would help the fiscal note. [LB1068]

SENATOR UTTER: Well, I would...not only help the fiscal note, it preserves the money, I think, for the uses for which it's intended. And it just seems to me like we just...we're going at it and creating a separate program that's going to require more help when we may already have sufficient help within the department to have on the job. [LB1068]

SENATOR HANSEN: That's a good point. [LB1068]

SENATOR PIRSCH: Are there any other questions for the Senator? Yes, Senator Pankonin. [LB1068]

SENATOR LANGEMEIER: I'll ask one more while you're here. And welcome to Banking, by the way. [LB1068]

SENATOR PIRSCH: I'm sorry...(inaudible) [LB1068]

SENATOR HANSEN: Yes, good to be back. [LB1068]

SENATOR LANGEMEIER: Yeah, yeah, kind of miss you back. I like the cultural updates we got from the Lincoln County every day. [LB1068]

SENATOR HANSEN: They're still happening every day, Senator. (Laugh) [LB1068]

SENATOR LANGEMEIER: And I miss them. I wish you would type them and e-mail

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them to me every day (laughter). I did appreciate that. And I just talked myself into not understanding my own question, but... [LB1068]

SENATOR PANKONIN: You forgot your own question. [LB1068]

SENATOR LANGEMEIER: It will come back to me. Here's my question. Is DED suggested to make this second fund...are they going to testify into that regard today? [LB1068]

SENATOR HANSEN: No. I asked Director Baier, and he said that they were waiting. They've been directed by...I don't know who, but anyway, they...there's a lot of NREDA bills this year, and they've decided just to wait till toward the end and testify on all of them. I don't know how they're going to do that for sure, but that's what I was told this morning. [LB1068]

SENATOR LANGEMEIER: Okay, very good. Thank you. [LB1068]

SENATOR PIRSCH: Well, I like, you know, the premise that you have underlying this which is perhaps there is better...we should look at optimizing the usage of these dollars that flow for rural development, that they're being used in just one kind of strict fashion right now for building buildings in communities that may more appropriately utilize that money to develop small business in the area, so that the buildings can follow the growth of the community so. I like that, and thank you for your testimony. Is there any other questions? Seeing none, we'll move on to the first proponent. [LB1068]

SENATOR HANSEN: Thank you very much. [LB1068]

LISA BURKE: (Exhibit 1) Good afternoon, gentlemen. You get another Lincoln County resident. I'm Lisa Burke. I'm the executive director of the North Platte/Lincoln County Convention and Visitors Bureau. It's the mission of the Convention and Visitors Bureau to enhance and promote a positive image within the communities of Lincoln County, and to assist in the development and continuation and promotion of quality events, attractions and amenities for our area. The North Platte/Lincoln County Convention and Visitors Bureau stands in full support of LB1068 which will create a Rural Tourism Development Act, which will, in turn, strengthen our local economy by increasing the development of new agri/eco tourism businesses that will ultimately increase the visitors to North Platte and Nebraska. Today it is extremely prohibitive to start an agri/tourism business in Nebraska. Those who try to do so face an extremely uphill battle. The first roadblock that they face is the high liability insurance costs. This issue currently is being dealt in the Legislature with LB830 which will reduce the liability of landowners who are engaged in agri/eco tourism ventures. Their second battle is with finances, and right now, if you were to try to start a new business in tourism, if you were a for-profit entity, say a farmer or a rancher, there's very, very few dollars out there available for you.

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There's all kinds of grants and monies and funds out there for nonprofits, but for private landowners or private businesses, there is not. Most agri tourism ventures or start-ups are farmers and ranchers who are struggling in these tough economic times. They are looking to diversify their income, so that they can keep their farm and ranches. It's extremely difficult, and I beg your pardon because I know most of you are...some of you are bankers, to explain to a banker that people who are not familiar, people who come from the cities, urban areas...that they will pay extremely large amounts of money to come and see what the everyday life of a rural Nebraskan is all about. Bankers have a difficult time conceptualizing tourism and its potential. This bill will make these major financial roadblocks easier to overcome as a new business. They will do that by providing no interest loans to new agri/eco tourism businesses in our state. This bill will also not have any fiscal responsibility for the state which is crucial right now, but still it helps grow our local economy. Locally, I am working with a family that has wetlands on the edge of the Sandhills in the Platte Valley. They're in Lincoln County. They want to develop a nature conservancy of sorts and develop Sandhill crane and bird watching and possibly Sandhill safari tours. Senator Hansen's bill will help this family get off to a great start with their business. In 2008, tourism generated \$71.4 million in direct travel spending and created over 1,290 jobs in Lincoln County alone. The tourism industry in Nebraska has extremely unlimited potential to grow, and Senator Hansen's bill will help us do that. The tourism dollars generated for the state are \$3.7 billion. It created over 40,000 jobs statewide, and the total economic impact for the state is \$9.9 billion. This is a good bill for Nebraska, and I do appreciate the efforts...your efforts to see it quickly out of committee and through the process to become law. I thank Senator Hansen for introducing this bill and his interest in tourism and the continued growth for Nebraska. Do you have any questions? [LB1068]

SENATOR PIRSCH: Super, thank you. Senator Langemeier, you have a question. [LB1068]

SENATOR LANGEMEIER: Thank you, Senator Pirsch and Ms. Burke. Thank you very much. And I'm not a banker. [LB1068]

LISA BURKE: Good (laugh). [LB1068]

SENATOR LANGEMEIER: (Laugh) As I read through your testimony, but I have a couple of questions. A couple of things here in my mind confuse me or they conflict which maybe my committee members would say, that's nothing new. But you talk about in these type of businesses, and I'm not going to read your quote, but you say the bankers have a difficult time conceptualizing tourism as potential. And you talk also about how people will come in and put out major financial commitments to do a safari in Lincoln County, Nebraska. And it seems that your indication would be here, it's hard to go get a loan at the bank. So...but you also state in here that these would be low interest loans, so is our problem we can't get loans because the bankers can't grasp it

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to make a loan or is it really not as profitable as you make it sound, and you need low interest loans is what...you have two totally different concepts there. [LB1068]

LISA BURKE: Right. And it's...the concept is, is that it's difficult for a banker to understand what the potential is for the business, and they need start-up capital to get it started, to...you know, you have to have room and board or what...you know, the start-up capital to start a business is what they need. [LB1068]

SENATOR LANGEMEIER: Okay. [LB1068]

LISA BURKE: And to do that, most of them need to go get a loan unless they're independently wealthy. And so that's where, you know, I see that a lot of problems come with the people that I've worked in Lincoln County. You know, they go to their banker and tell him what their business plan is, and he...we tend to be, as Nebraskans, very...we don't charge enough for our services or what we have to offer. So the banker sees that, you know,...to see a cattle brand...you know, a branding or see people moving cattle and working cattle and see cranes, we see that every day, and we take advantage of it. It's just something we know we see. So we don't see the value of that, and I think that's where the disconnect comes to. The banker doesn't see the value of what that rancher or farmer has to offer, and that's where, you know, he can't conceptualize what...that people are actually going to pay a lot of dollars to come in and see this. Do you guys realize that in big cities like New York and Chicago and Denver, they've never ever seen the stars? You come out to rural Nebraska, and you can see stars. And just little things like that, that people don't understand that we have to offer. [LB1068]

SENATOR LANGEMEIER: Okay, you lost my question. Let me rephrase it. My experience with the bankers, and I've had some wild ideas is number one, is risk... [LB1068]

LISA BURKE: Um-hum. [LB1068]

SENATOR LANGEMEIER: ...and number two, are they going to get paid back? [LB1068]

LISA BURKE: Right. [LB1068]

SENATOR LANGEMEIER: And my fear is if you can't explain that to a banker, the risk and the ability to pay it back, why would I want to put state dollars at that same risk? [LB1068]

LISA BURKE: But doesn't this bill reduce that risk by providing a zero percent interest loan to match that other loan? [LB1068]

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SENATOR LANGEMEIER: I don't know how the zero percent interest would relieve risk. The risk is getting it paid back. Yeah, the principal amount getting paid back. That's what my fear is, is if you can't sell it to a banker, and I've sold him on some wild ideas, but we've paid it back. [LB1068]

LISA BURKE: Right. [LB1068]

SENATOR LANGEMEIER: That's my concern is, is...I guess I don't want to be a banker, but. [LB1068]

SENATOR PIRSCH: Thank you. Senator Pankonin. [LB1068]

SENATOR PANKONIN: Thank you, Senator Pirsch. Just kind of a follow-up to Senator Langemeier. Okay, so we have a no interest loan, but that's...interest rate whether it's 10 percent which would be high in today's environment, but like he said paying the principal back. But what if these monies don't get paid back? [LB1068]

LISA BURKE: Then there's stipulations, I believe, in Senator Hansen's bill that come...he has set provisions on how that's to happen if it doesn't get paid back, I do believe, in the bill. [LB1068]

SENATOR PANKONIN: Okay. [LB1068]

LISA BURKE: And I can't quote that exactly...and I don't have it in front of me to specifically go through that. [LB1068]

SENATOR PIRSCH: Any other questions? I just had...just to clarify, and it looks like on page 2 of the bill, it says, rural tourism...and I'm looking at, and I don't know. You don't have a copy of the bill, but...and so maybe I'll just pose this to those who... [LB1068]

LISA BURKE: No, not right in front of me. I apologize. [LB1068]

SENATOR PIRSCH: ...maybe testify after you. If I have a wrong conclusion, but it says rural tourism includes but is not limited to agri tourism or eco tourism businesses, so it could include any rural tourism. It's not just strictly agri tourism or eco tourism. [LB1068]

LISA BURKE: Right, agri/eco. Yeah. [LB1068]

SENATOR PIRSCH: Okay, and thank you very much. Any other questions? Seeing none, I will move on to the next proponent. Good afternoon, Dana. [LB1068]

DANA MARKEL: (Exhibit 2) Vice Chairman Pirsch and members of the committee, good



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afternoon. My name is Dana Markel, D-a-n-a M-a-r-k-e-l, and I'm representing the Nebraska Travel Association or better known as NETA. The NETA membership is comprised of both public and private attractions, restaurants, lodging facilities, chambers of commerce, and convention/visitor bureaus. We truly represent a cross section of tourism throughout Nebraska. Last week you may know, a national tourism marketing professional named Ted Lee Eubanks was in our state to speak at an agri/eco tourism conference in Kearney. He focused on America's new trend of searching for experience-oriented tourism. He went on to emphasize Nebraska's opportunity to capitalize on this trend by developing tourism experiences which are authentic and natural. Our spectacular rural landscapes offer rich history and experiences which are unique to only Nebraska. By growing rural tourism, we bring a new revenue source to our state, and we gain recognition for our remarkable resources. As Mr. Eubanks went on to exclaim the values of rural tourism, I'd like to share one final quote from his presentation. He said, "When society moves so far to the artificial, I think this (rural tourism) is a connecting force that moves us back to the real." Nebraska can provide magnificent real experiences by developing our rural resources into tourism gems. Because of this, NETA supports LB1068, and we thank Senator Hansen for bringing his efforts and bringing attention to the benefits of rural tourism. [LB1068]

SENATOR PIRSCH: Thank you. Appreciate that testimony. Senator Langemeier, you have a question? [LB1068]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Thank you very much for your testimony. You're all doing a great job. Ms. Markel, since I don't want to be a banker--I already stated that--and I think we need to reward ideas that are unique like we're giving an example in Lincoln County. What if we just took this fund that's getting money repetitively increasing, and we don't have enough people coming in for civic centers to use it up which Senator Mello is here from Omaha. I hate to hear him think that because we will spend this money in rural Nebraska. (laughter) But what is your thoughts if we just expanded the program that this 30 percent money goes into and just dedicate \$250,000 a year goes to grants, and let's just take the creative ideas; let's rank them. And let's just give them grants to get these programs underway. Is zero interest...the odds we get it collected back as I look through this provision of how you create a lien. I know enough about banking that that really doesn't mean anything. Why don't we just say, number one, it will be is it unique to Nebraska? Give it some points. Is it going to hire people? Is it going to, you know, who's a potential user? Is it someone from New York or is it someone from Omaha coming out to our ranch, for example, to a branding. And just create a grant program that just says, let's see you create some unique businesses in Nebraska. [LB1068]

DANA MARKEL: I certainly think that that is an option in support of Senator Hansen's bill. He is asking for a minimum of \$500,000 so...and I think that's an appropriate amount of money to help develop rural tourism. As far as creative ideas, we do have

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them now. It's just they don't have the capital to start. [LB1068]

SENATOR LANGEMEIER: I guess what I'm getting at is if they're creative, and they think they can work, but we can't sell them in a real good business plan, maybe we could set up a group to rank them and then put X bucks towards them, and let's let them fly, and see what happens. [LB1068]

DANA MARKEL: Well, I don't think that they've been proven that they can't succeed as a business. [LB1068]

SENATOR LANGEMEIER: But they can't get bank loans, so there's obviously not a lot of proof. [LB1068]

DANA MARKEL: Oh, I wouldn't say the majority...well, I'm speaking for the association... [LB1068]

SENATOR LANGEMEIER: Sure, that's why I'm picking on you because you've been here before. [LB1068]

DANA MARKEL: ...and...right. No, that's fine. There has (laugh)...I mean, there are many untried experiences that with funding I think could present a business plan that would be very compelling. [LB1068]

SENATOR LANGEMEIER: Okay. And I think there's a way to reward. My father always said, if someone came into our office and had an idea that they wanted to...some start-up capital because they had chickens that would lay golden eggs. My father would always say, he'd throw them right out the door, but, Chris, you'd actually listen to them and try and come up with a plan. But there may be a way to try and reward some ideas and get something started. [LB1068]

DANA MARKEL: I very much appreciate your recommendation to establishing some kind of criteria that would help deliver a return, and that can easily be done. And we are talking specifically tourism and some of those measurements I think should be number of visitors coming into the community. New money coming into the community and into the state. [LB1068]

SENATOR LANGEMEIER: Thank you. [LB1068]

SENATOR PIRSCH: Thank you. Senator Utter. [LB1068]

SENATOR UTTER: You know, thank you, Senator Pirsch. And Ms. Markel, I've...I'm looking...looking over the section 7 of this legislation which has to do with repayment, and as an old banker, I would have to tell you that...that some of these loans are going

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to be grants because if they had...(laugh) [LB1068]

DANA MARKEL: Okay. [LB1068]

SENATOR UTTER: ...if they had no equity coming into the business, and if the thing doesn't turn out quite as...and I have heard some of these stories in my lifetime. And if they don't...virtually, there's not any security there as I see it for the...for the travel and for the fund to assure that those are going to get paid back, particularly from the standpoint is that we don't file any liens until after the loan is past due. The best time to get a lien is when the loan is made, not when the loan is past due. And I'd have to tell you that in my...I've never made a bad loan in my career as a banker. But I've had several of them turn out that way, but the day I made them they were good (laughter). And there was...I think Senator Langemeier is onto something here that this whole idea that we're going to make a zero interest loan and expect repayment. It seems to me like you take the best of the best of these ideas and maybe use the grant technique because I think that's what we're doing anyways--making grants. And... [LB1068]

DANA MARKEL: I have a better understanding now of your... [LB1068]

SENATOR UTTER: ...and we'll be making those grants to folks who did not succeed. [LB1068]

DANA MARKEL: Right. I have a clear understanding. Yeah, I think on behalf of Senator Hansen, he's looking for...and I applaud this. He's looking for a way to keep that fund vibrant and pump money back into it. But in all honesty, if you look at the allocation of funds from the...what is it, the LCCCF that we're calling it now? They have been grants. I think in the community centers that have received funds from this...this revenue source, I think that could be argued as a grant. So I see your point. We, as a tourism association, are just saying, we would like to see this money...a portion of this money diverted into true experiences that will help us market the state as a destination. [LB1068]

SENATOR PIRSCH: Senator Christensen, you were next with your hand up. [LB1068]

SENATOR CHRISTENSEN: Thank you, Chairman. And thank you, Dana. I guess when I look at you work for Nebraska Travel Association, I think maybe there's one thing that we could do to help these businesses succeed as well as push tourism dollars in this state, and that is there's always, always tours advertised to Branson and everywhere else that are set up. If we were setting up tours to see brandings mixed in with some of the community events with Nebraskaland Days or something else. If we started setting up different tours that moved across the state and advertised these, you would help these young businesses succeed as well as push the quality and the benefit of young entrepreneurs in this state. [LB1068]

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DANA MARKEL: I agree with you 100 percent. Do you know where Nebraska ranks in terms of tourism promotion dollars in the country? That's one of our challenges, and it's another issue...it's not a part of this bill, and that we will be before you on another day talking about promotion dollars. But you're right. [LB1068]

SENATOR CHRISTENSEN: But if you took and maybe that's a way to adjust this bill, I don't know. But if you took these new businesses that started up and schedule them. I've always said, if you had all the town events scheduled across the state so they moved in sequence across the state, you could go to multiple events. But the problem is, 4th of July you got them in 20 different cities scattered from Imperial to Seward to all over, and then you pick a Labor Day one; they're scattered all over. You can only hit one, maybe two... [LB1068]

DANA MARKEL: Well,... [LB1068]

SENATOR CHRISTENSEN: ...and I don't think you'll change cities. That's why I say, if you set up tours and work with people, brandings occur at different times across the state. City events occur at different times, and if someone just set down and set up some logical movement between different events and tied in a tour, you might have to end up at a Nebraska football game, and all of a sudden, you lock in a big event. I don't care how you do it. I think this can be done. [LB1068]

DANA MARKEL: Yes. Our Division of Tourism does have a group tour person who does that and just keep in mind for special events, many times cities are sold out. Inventory with hotel rooms and really what we're looking for in a tourism development aspect is something that can be available year 'round...I mean, throughout the summer, year 'round and not a specific date. But I do agree with you 100 percent, and I think we could dedicate more effort towards that and see more success. [LB1068]

SENATOR CHRISTENSEN: Thank you. [LB1068]

SENATOR PIRSCH: I think Senator Pankonin, you had your hand raised. [LB1068]

SENATOR PANKONIN: Thank you, Senator Pirsch. Thank you for testifying and coming today. I think what...I haven't been the day to day person, but I've been a bank director since 1977, so I've seen it at somewhat a level like Senator Utter. I think the point is whether it's a financial institution or the state. When you talk about a loan, the emphasis on a loan is that it gets paid back. It's an obligation to pay back. And there is risk there as Senator Langemeier has talked about. And from my experience, the SBA, the federal Small Business Administration, is...has some great programs that guarantee loans where the banker has maybe 10 percent of risk or 20 percent of risk or whatever. And they have programs that are small, low doc, don't take a lot of work. Point being, I

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think if your association or other groups were familiar with those programs that you could help with some of these people that have the ideas to say, we'll help you go to a financial institution with a plan, and I've heard a lot of ideas too where people have no idea how those funds are going to be paid back. And SBA, I mean, that's...that weight in the risk to the financial institution would maybe be 10 or 20 percent of their principal instead of a hundred percent which would be better than what the state's going to be risking here is a hundred percent of the principal. So I think some of them might be to work with these folks that have ideas on some of the processes that are already there, and I think there's some valid ones there that they could use if we gave them some training that don't need a lot of security. So I mean, I think there's another way that we could use maybe state dollars to help people understand the federal programs that they could go to a private financial institution and get a loan. And that institution isn't risking a hundred percent of the money but a smaller percentage based on the chances of that going. But it does make people come up with cash flows and the probability of success, and we...people need to do that. I mean, just to give people money because they have an idea I don't think is good policy for a private financial institution or the state of Nebraska. [LB1068]

SENATOR PIRSCH: Senator Langemeier, you look like you had a question. [LB1068]

SENATOR LANGEMEIER: I'm going to ask one more question, and I'm not expecting you to answer it. This is for Senator Hansen to answer in his closing, but I'm going to give him a minute to ask the previous testifier. Something that just slipped my mind is, is she talked about a safari in Lincoln County and talked about a branding. Is there any idea how much money that might take? Is that a \$10,000; a \$20,000; a \$30,000 thing and then she can give that answer to Senator Hansen and he can bring it in his closing. Hundred thousand, whatever. Thank you very much. You did a great job. [LB1068]

SENATOR PIRSCH: Thank you. Next proponent? [LB1068]

CRAIG HEAD: Good afternoon, Senator Pirsch, members of the committee. My name is Craig Head. That's C-r-a-i-g H-e-a-d, and I'm the state director of government relations for the Nebraska Farm Bureau Federation, here today on behalf of the organization to offer our support for LB1068. Given some of the previous testimony, I just would step up here to just reiterate, we have some long-standing member adopted policy that supports trying to find ways to enhance and promote rural economic development in Nebraska, and part of that policy includes agri tourism, recreational tourism, any ways that we can generate new monies and new opportunities in rural Nebraska, so we can find ways to keep young farmers back in the community even if it can't be directly through traditional production agriculture, but more through nontraditional means like the agri tourism venture. So with that, given some of the conversations that took place earlier, I'll keep my comments very brief and conclude with that, and other than to reiterate our support. [LB1068]

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SENATOR PIRSCH: Thank you, Mr. Head. Are there any questions? I don't know, I just have a quick question for you, but with respect to, you know, these real and authentic experiences in terms of oriented tourism and we're talking about branding and safaris and, it seems to be that we're marketing that towards high urban, you know, high population, urban centers which I don't know...New York I think was a word I heard and whatnot. Is that really where the biggest bang for our buck is going to come in terms of agri...tourism for rural areas or typically, when you look at it, are we better off devising a plan to harvest surrounding states...Kansas, Missouri, Iowa, you know, Colorado in terms of drawing those populations a little bit further, you know, three-, five-hour trip. So I mean, you're kind of...or is that...is that the target population you're talking about, you know these neighboring states when you talk about safari and branding kind of authentic operations? [LB1068]

CRAIG HEAD: Maybe the best way...and I think it could be either, but let me give you a personal example here that I think helps sets the table because I'm not sure I would have, ten years ago, thought agri tourism could have been something. I've been very familiar...I've been working with a nonprofit the last four years, and part of what that nonprofit does is work with ag promotion. And one of the things that we have done as that nonprofit is we have worked with livestock producers to hold open houses in their community. There's a dairy south of Lincoln by Firth that every year in June holds an open house for Lincolnites to come out and actually see what goes on in the dairy operation. They've been averaging about 5,000 people a year that show up for this one-day event to see cows getting milked, to ride in the milk truck, to see what we feed the animals. It seems like there's a...and that's, you know, 15 miles south of Lincoln where you get that kind of turnaround. So I wouldn't dismiss the fact that as...I think it's a big issue for agriculture is that this understanding that not everybody has the connection to agriculture that they used to have. And we are further and further generations removed, and sometimes we take for granted the things I think take place in production agriculture. So, you know, we could certainly market to New York City for folks who don't get to see the lights. I understand that, but I don't think we have to go maybe as far as what we would even think where you could have some agri tourism type activities here within the state, as you mentioned, that are three to four hours away, that's a family getaway for a weekend where people from Omaha and Lincoln, who Grandma and Grandpa sold the farm, and I have no connection...my kids have never been on a farm to have that opportunity. So I don't think I would look at it...I don't think I would try and pigeonhole it into any one type of agri tourism. I just think there's a lot of opportunity there that exists. [LB1068]

SENATOR PIRSCH: Should the focus or goal of our tourism be export driven or shall we be looking at keeping Omaha and Lincoln in the state rather than them go down to Kansas City or Adventureland, that kind of thing, or shall we be looking...or shall we be marketing to, you know, people in surrounding states or even people in, you know, New

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York? I mean, what...I mean, do you have a sense of that when it comes to this agri tourism? Who do you see in ideally, 10, 20 years from now a fully matured, developed market? Who are we looking at? [LB1068]

CRAIG HEAD: I think it all depends on the type of tourism that you're talking about in my perspective. Not that I'm an expert on this, but I do know we have members who are engaged in the hunting lodge resort type of thing. I know they have people that have come all the ways...far away as Chicago to come spend a weekend to hunt in Nebraska. I mean, we have those types of ventures. When it comes to the livestock operation type of approach or the pumpkin patch thing, that's probably more local type agri tourism, so I...my perspective from what we've seen from our membership is it probably really depends on the business. From a long term perspective, I suppose it depends on where the state wants to go. I'm not sure on that. [LB1068]

SENATOR PIRSCH: And I think you touched upon it, developing the pumpkin patch thing instead of going down to the local bowling alley, now this weekend my family is going to the pumpkin patch. I don't know that a state interest, a compelling state interest exists for, you know, kind of giving low interest or grants to those kind of operations. Right? Shouldn't the state be interested in kind of export? In other words, bringing in tourist dollars from outside, right? [LB1068]

CRAIG HEAD: Right. Drawing out-state monies, and I think that certainly would be an objective of any type of state policy that you would have. [LB1068]

SENATOR PIRSCH: Okay. So this would be consistent with that. You think you...in terms of surrounding states and/or New York City, those kind of... [LB1068]

CRAIG HEAD: I think you could certainly make that type of argument, yeah. Yep. [LB1068]

SENATOR PIRSCH: Okay, very good. Thanks. Any other questions? Seeing none, thank you very much. [LB1068]

CRAIG HEAD: Yeah, it was great. Thank you. [LB1068]

SENATOR PIRSCH: Thank you very much for coming here today, and you can just start whenever you're ready. [LB1068]

JIM PAPPAS: Vice Chairman, committee members, my name is Jim Pappas, J-i-m P-a-p-p-a-s. I'm here representing the Independent Cattlemen of Nebraska, here in support of LB1068. First, I would like to make a statement. I personally do not think the state spends enough time nor money or effort promoting tourism in the state of Nebraska, and I'll gladly have a discussion about tourism with anybody anytime

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anywhere. But the people I represent are looking for methods and means to try to keep more of their family members on the farm economically to support extra family members if they want to stay on the ranches, and this bill would be a small step towards helping accomplish that. They have a tremendous story to tell out there, and when we talk about branding, the group I represent--for two years, I tried to talk them into inviting urban senators out to the ranches to experience the other way of life, what goes on. And this year they did invite three senators...all urban senators to witness a branding at a ranch north of Hyannis after the session ended last June. Unfortunately, the weather was so inclement and it was cold, we talked it over and decided that maybe the urban senators couldn't tolerate the weather conditions, so we called it off for those three senators and their families. But, unfortunately, my family was so enthused about going out there and because I was supposed to go out there with them, I reluctantly took my family out there, and for three days the weather didn't get above 50 degrees and didn't see the sun for three days, and it misted or drizzled for three days. But the unique thing about the experiences that you guys was touching upon, my family is truly, what you call city slickers. And none of them have ever been on a farm or ranch before. They've never experienced anything like that. I got a son that's a freshman at UNL this year that's a computer geek and a math geek. And we went out there, and I thought this isn't going to be pretty, and for three days they helped round up calves, helped vaccinate calves, castrate calves, brand calves. Went down the Snake River, got tipped over about ten times, froze to death, camped in facilities with no electricity or running water, etcetera, and they loved it. All the way driving back, that's all they could talk about. They wanted to stay an extra day. They wanted to look forward to going back again this year, and unfortunately, I'll have to go back out there with them, but we're going to invite some other senators to go with us. But it is a unique experience. They have a tremendous story to tell out there. There's many different areas that they can sell all during the summer...not only branding, but any place from fishing to tours, etcetera, etcetera. And anything I can touch upon or answer any questions, I'll be glad to try to do so. [LB1068]

SENATOR PIRSCH: Thank you for that testimony. Any questions? Seeing none, I appreciate coming down here today, and we will see if there are any other proponents. Any other proponents? Seeing none, we'll move on to opponents. Anyone here to testify against? [LB1068]

JERRY STILMOCK: (Exhibit 3) Good afternoon, Senators. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of the Nebraska Bankers Association in opposition to LB1068. The NBA has traditionally supported and been involved with economic development, and we continue to do so. However, we've also consistently been opposed to allow state agencies or local political subdivisions to enter into the lending business. We do not believe that governmental entities should be in direct competition with private enterprise, particularly when the government entity is not subject to safety and soundness or other lending regulations the way the banking industry is. The items discussed thus far in terms of a direct grant program--those are



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some of the measures that the NBA has looked at and assisted the Legislature in suggesting other ways than a direct competitive situation the way (LB)1068 would present. Grant programs--perhaps it would be in the form of loan guarantees that was mentioned. Perhaps it would be a third category of interest buy-down programs similar to what the state energy office uses in dollar and energy savings loan program. A fourth would be direct loan participations where there is a leveraging of the funds from the state side, and would allow the program perhaps to be expanded upon so that in a loan participation, the financial institution would be taking a percentage of the loan along with the governmental entity. We read in the bill, as you have, LB1068 requires a review of business plan. And somebody at the department would have to review that business plan, and if the business plan did not make good business sense to the person at the department reviewing it, there would be an opportunity to make changes to that business plan based upon the recommendations from the department. Those are the very items that the banking industry does on a daily basis. So we would certainly appreciate the opportunity to engage in further conversations with Senator Hansen. I know my colleague has done so already. But we believe that banking should stay in banking and government, hopefully, stays in government. But that the department be allowed to facilitate these loans rather than being in direct competition. And we'd appreciate the opportunity to further those conversations that were started with LB1068 and I'd be happy to try to answer any questions that you may have. [LB1068]

SENATOR PIRSCH: Thanks very much. Senator Christensen, you had a question. [LB1068]

SENATOR CHRISTENSEN: Thank you, Chairman. Thank you, Jerry. [LB1068]

JERRY STILMOCK: Yes, sir. [LB1068]

SENATOR CHRISTENSEN: I appreciate your suggestions with your objections here, but I guess what I might suggest is, I can see a number of the suggestions here that they could end up being grants instead of loans anyway. And I guess with an ongoing fund that Senator Hansen mentioned, there's continued money coming in. I guess I'll throw this at you, and also Senator Hansen can address it, of looking at taking a certain percent that comes in every year and throwing into this fund. And using it as grants or leveraging to get your loans to, you know, I don't care if it's loan guarantees, if it's buy-down, if it's leveraging--you can do it in a variety of different ways. But I guess I think there's a great opportunity here, but at the same time, I know it's a risky adventure to get into. Thought about it myself a number of times and didn't feel it was worth the risk. And, you know, I appreciate the bill and the thought on it, but I guess what I'd throw at you, have you guys give him examples of how it would help on the loan guarantees, the buy-downs, how they can be leveraged, how it could be set up to take a certain percentage and go after the process? I guess in listening to this whole committee today, it has been maybe we need to take the best ideas or proposed business plans as I'd

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look at it, and use it as a guarantee or an interest buy-down or a grant. How much money down would it have to take because I guess I've borrowed a lot of money in my day, and I got an idea in mind what it takes. You got to have so much collateral, you know, to start a new business and, to me, these are risky businesses because it's difficult to get the trade established. And that's why part of my comments earlier was, if we could advertise these things; if we could set them up on tours; if we could set up a complete plan here, we could get success. What I see is, you got young entrepreneurs that without the grant, they don't make it and they fail, and the business plan probably was sound, but didn't have enough backing long enough to develop the business to be self-supporting. And so it's so difficult to accomplish, so I guess maybe Senator Hansen knows, I guess I don't; what it would take, what kind of money would it take to get interest buy-downs, or what kind of money down on a business to get the bank to step up and take the loan, things this direction. I think there is something that needs to be done here. [LB1068]

JERRY STILMOCK: Yes, sir. [LB1068]

SENATOR CHRISTENSEN: I just...I haven't come to grasp with how to do it yet. [LB1068]

JERRY STILMOCK: Yes. [LB1068]

SENATOR CHRISTENSEN: And I guess if you've got suggestions on that end, I'm all ears. I know I didn't ask a good question. [LB1068]

JERRY STILMOCK: Yeah. No, it made me think of an example, and your time is precious. I won't belabor the fact any more than to make a point. An area in central Nebraska did a tremendous job in opening a ten-acre greenhouse for growing tomatoes. It was a beautiful plan; everything was rosy; everything was going great. But what the plan did not provide for is a thunderstorm that involved hail stones as big as softballs within the first four months of operations. So I want to open up a kayaking plan or canoeing plan, and I have everything great on paper, and, you know, that's what the plan is. But what I did not provide for is, I didn't get the numbers involved because we happened to have a wet spring and a...an overly wet summer, and so the people didn't come out. Those are the types of things that may be some alternative rather than a direct loan by the government. Maybe this is something that we could use, that it would be in the form of a grant; it would be in the form of...I mean, a grant, obviously, is all on the state side. But if there was some desire by the committee with Senator Hansen's blessing to come in together with these items to facilitate the department, in facilitating a loan or buy-down or interest reduction with a lender, you know, if that's the direction the committee and Senator Hansen want to go. But my mission and my charge today was to bring to you that we support economic stability and growth at the NBA, and we want to be able to, hopefully, facilitate the lending process rather than being in direct

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competition with the government. [LB1068]

SENATOR PIRSCH: Thank you. I guess, is that a question, Senator, or just a pen clicking? (Laughter) Pen clicking. I guess I just have a comment and question, too. Are you familiar with the...and there's a program...a loan program at the Nebraska Energy Office for making loans to homeowners for greater efficiency, energy conservation, that kind of thing. And that utilizes the banks to actually make those loans, so that might be...I mean, do you think that might be a working paradigm? [LB1068]

JERRY STILMOCK: I do, Senator Pirsch. I think that would be a good...a good path to go down to should the committee decide to move forward. [LB1068]

SENATOR PIRSCH: I guess I for one am a little bit leery...you know, when it comes to grants versus loans, yeah, there's no...you know, there's no certainty that you will be repaid with loans, but there is a hundred percent certainty you'll never be repaid with grants to the extent that you're looking at leveraging a finite amount of money into the biggest bang for the buck. I would suggest that probably loans while they're not perfect might be through that structure that exists through the energy office, the better way to go about it. But that being said, are there any other questions? None? We'll move on to the next proponent. Oh, I'm sorry, opponent. Any other opponents? Seeing none, anyone who wishes to testify in a neutral capacity? Seeing none, Senator Hansen, would you like to close? [LB1068]

JERRY STILMOCK: Okay, thank you, Senators. [LB1068]

SENATOR HANSEN: Thank you. I am Tom Hansen from Lincoln County, home of Buffalo Bill, the first worldwide super star in the world, and yet today, 135 years later we still celebrate Nebraskaland Days and the rural life of our state. I am passionate about tourism. I'm passionate about rural Nebraska, and especially western Nebraska, and especially livestock that can be...when we talk about agri tourism, we're not talking about somebody coming out from New York or Japan to watch someone plant corn. We're more than likely wanting to have some animals involved in this or at least scenery. I'll go back to the beginning when I...I came up with this bill. I approached DED. DED did not approach me. I approached them. I was going up and down the highway, and I was thinking...actually, I was thinking about Senator Mello's bill a year ago where he wanted some money for a golf tournament in Omaha, and how we could expand on that idea for rural Nebraska and get a project off the ground with some state money, with some tourism money, with the idea of paying it back after that event is over or after that business is established. In my life, I have not borrowed a whole lot of money. I've paid every dime of it back I've ever borrowed. My business plan has that in there. You've got to pay that back. If you borrow from the banker, not the devil--borrow from the banker, you've got to pay the banker back. And I think these businesses...my idea was not a grant program. I think there's grant programs out there now. But if you

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look at the numbers, we need Nebraska bankers in this system. You got 10 percent equity in the business. You get 40 percent from the state. That leaves what--50 percent of the operating loan that has to come through the bankers. And I think that in order to ever expand on tourism, rural tourism, we're going to have to get the Department of Economic Development who is used to doing tourism projects in with the Nebraska bankers and come up with some of these small businesses. There's people out there, believe it or not, in rural Nebraska that have businesses that have never written a business plan. Do you believe that? (Laugh) Not a hard sell on that one. (Laughter) But they could. I mean, I've got...I've got granddaughters; I've got a son and family out on the ranch, and they're consistently looking for something whether it be hunting operation or something that can be expanded into another side business. We're all looking for side businesses. That's what the wind generation is all about in the state of Nebraska is a side business, so we can get some...get some land set aside and get some easements on those. That's nothing but a side business for landowners, and that's what we're looking for in this bill. That's what I'm looking for in this bill. I think the question about the liens is pretty simple. If you get the bank loan, they hold the first lien. The state can't file a lien until the loan goes bad. Is that correct? Not correct? [LB1068]

SENATOR UTTER: I don't think so. [LB1068]

SENATOR HANSEN: Okay. I don't see this as a grant program. I really don't. If we can't do it as a loan and with every intent on having the money paid back, I can't see this...I mean, we'll try again in another year, but I can't see this as being a grant program. Three things I want to bring up to you, and this came from the Travel Industry Association of America. Most American travelers, 80 percent, highly value outstanding scenery. You can't see that from Lincoln or Omaha. Most travelers, 73 percent, place a high importance on a clean, unpolluted environment when I take a leisure trip. You can't see that in Lincoln or Omaha either. Many...61 percent believe their experience is better when their destination preserves its natural, historic, and cultural sights. And I think we're talking about western Nebraska, and we do have some potential out there. Thank you. Are there any questions? Yes, sir. [LB1068]

SENATOR PIRSCH: Senator Utter. [LB1068]

SENATOR UTTER: Senator Hansen, have you ever stood in a cornfield on a hot summer day and listened to the corn grow? (Laughter) [LB1068]

SENATOR HANSEN: No, I've stood on a sandhill and listened to the grass grow, though (laughter). One thing about all the research...haven't done an amazing amount of research on this, but I have figured out that I guess the bottom line is you can't make a mountain that we don't have in Nebraska out of a sandhill. [LB1068]

SENATOR PIRSCH: I think Senator Pankonin had a question. [LB1068]

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SENATOR PANKONIN: Thank you, Senator Pirsch. Senator Hansen, I think you've got a good idea, obviously. I think there is a lot of potential. Hopefully, further discussions with Nebraska bankers or some of these things, and I understand where you're coming on a loan. It's just that, you know, especially bring the money back to the fund and those sort of things, but I think there's some more things need to be searched out here. I will dispute one thing, though. I think in eastern Nebraska with the rolling hills and sitting in a big red combine harvesting corn (laughter), people...I know people that would pay for that. I mean, that's a fun experience. The scenery is out there to see how these great big machines work, and for younger people to see the technology that's built into them now with GPS and the things that they can measure. I think there's, you know, there's other opportunities. I think one of the issues or one of the things you ought to check with is you ought to ask Senator Loudon about his experience. He had a German couple fly in once and spend a week with him, and LeRoy Loudon will tell you how they did a lot of work for him and paid him. And he thought that was just wonderful. (Laughter) He said this is the best deal I've ever had--got a lot of work out of them, and they paid me (laughter). So you have to ask him about that experience sometime. It's a good story. [LB1068]

SENATOR HANSEN: We've had travelers from all over the world, and the Golden Spike is another example in North Platte where we had 24,000 people visit that tourism spot where it overlooks the largest rail classification yard in the United States or in the world actually. And they had 24,000 visitors the first year from all over the United States and Europe so. [LB1068]

SENATOR PANKONIN: Yep. I'd like to come see that myself. I bet you'd take me over there. [LB1068]

SENATOR HANSEN: Yep, I would. I would. [LB1068]

SENATOR PANKONIN: All right. [LB1068]

SENATOR PIRSCH: Super. Okay, any other questions? Seeing none, thank you. [LB1068]

SENATOR HANSEN: Thank you. [LB1068]

SENATOR PIRSCH: That concludes our hearing on LB1068, and we will proceed to LB1074, seeing that Senator Mello, the sponsor, is here. Good afternoon, Senator Mello, whenever you're ready to start. [LB1068]

SENATOR MELLO: Good afternoon, Vice Chairman Pirsch and members of the Banking, Commerce and Insurance Committee. My name is Heath Mello, H-e-a-t-h

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M-e-l-l-o, and I represent the 5th Legislative District. I come before your committee this afternoon as the introducer of LB1074, a bill to provide job training grants to film production companies. LB1074 adds specific language to the already existing job training grant statutes in an effort to promote job training in the specialized industries of film and television production. Expanding the existing job training grant statute will allow Nebraska's creative growing and talented residents to develop the skills necessary to become a competitive local film and television work force. Specific job training could include: video production engineering, video post-production, audio engineering, communication design, production design, local management, art direction and production management, screenwriting principles, and digital media editing. As you may already know, LB1074 has a companion bill, LB1073 in the Revenue Committee which would provide film incentives for the state of Nebraska. If LB1073 is enacted, there will be a heightened anticipation that more film projects will choose Nebraska in their future. This is why it's so important to develop a locally vested and well-trained work force that will be so vital to sustaining Nebraska's attractiveness to film production companies. Stimulating Nebraska's work force and economy is the key component of this legislation. Through the proper job training programs, developing a vital film and television production work force can be accomplished in Nebraska. Despite our location in the middle of the country, there are stories to be told, projects to be filmed, and specific industry jobs to be seized. Once passed, LB1074 would allow film production companies the opportunity to receive job training grants by following the same procedures as other Department of Economic Development job training grant applicants by submitting a business plan, meeting eligibility requirements, and applying for a grant. Film production companies that receive job training grants would also have to meet additional standards. The company must produce a media product in Nebraska, spend at least \$1 million on goods and services and employ Nebraska citizens at wages above the average prevailing wage. LB1074 would also authorize the Department of Economic Development to make expenditures from the tourist promotion fund in the effort to further promote film and television production projects that will be filmed and developed in the state of Nebraska. As I've stated before, through the adoption of LB1074, the components of this bill would create an infrastructure essential to not only attracting and growing the state's artistic and cultural heritage, but to stimulate Nebraska's economy as well. Thank you, Vice Chairman Pirsch, members of the committee. I would be open for any questions you may have. [LB1074]

SENATOR PIRSCH: Super. Senator Christensen, I think your hand was raised first. [LB1074]

SENATOR CHRISTENSEN: Thank you, Senator Pirsch. Senator Mello, thank you. I appreciate you being here during the last bill because what I learned there is there's nothing to see in Omaha (laughter) and all the stars are in western Nebraska. (Laughter) In...but seriously now, in this training part of this, would we be doing any competing with those that are going through the university and taking film production,

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and are we going to actually give a break to somebody to train people that technically are being trained through school, or is this just supplementary to accomplishing a particular movie? [LB1074]

SENATOR MELLO: This would open up the job training grant program to companies to hire and to train people for whatever specific duty or job that they're looking to apply for. We know through our research that the university and multiple community colleges across the state have some of the programs I listed such as audio engineering, video production engineering, some more of the highly skilled production aspect curriculums and programs that are available for students to take. Ultimately, this...I mean, this would still be available for a company to choose who they want to hire, so if they want to hire someone who already has that degree or already has that training, that's up to that company to do so, and they would qualify for any additional job training grants that would be necessary under the program, under their application. So it's...I guess it would be safe to say that any production company that would come to Nebraska or an existing production company that would spend the million dollar threshold could hire someone from a community college or the University of Nebraska system who has this education to work for their production and apply for credit for that employee, but once again, it's only if they need additional training that they don't already have because that's the point of the job training grant program is to provide funding to a company so that they can train their employees to do the job that they need them to do. So it's kind of a long answer, and I apologize. Essentially, it doesn't matter in the sense of what your background is or what your prior education is. You might already have all the necessary skills that a company would require of you, so if that's the case, they really aren't applying for the job training grant program to provide you more training unless there's specific training that you don't have that they feel you need to work on their production. [LB1074]

SENATOR CHRISTENSEN: Is this really going to help us bring more film production in the state of Nebraska if the other companion bill or whatever doesn't pass? [LB1074]

SENATOR MELLO: You know, that's a good question, and I was anticipating that question from the committee because really LB1073 is the main crux of kind of the film job training and tax incentive bill. Existing businesses, even if we didn't pass LB1073 that's in the Revenue Committee, by passing LB1074 you would still open up the job training cash fund for businesses that would come in the state and do work of over a million dollars. So I think both bills deserve merit and deserve to be passed. This bill does not have a fiscal note. LB1073, as Senator Utter knows fairly well from my testimony last week in Revenue, that does have a fiscal note that we're looking to explore ways to shrink that working with the Department of Economic Development to try to reign in some of the required cost to create that program. So I think with LB1073 aside, LB1074 is a good bill, and it provides an incentive of its own for the job training component for any existing film productions that might come to our state regardless of

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our film tax incentive. Now the reality is this: very few film production companies come to Nebraska in the first place because we don't have incentives, so the likelihood of a lot of usage of this component, of the job training grant program, I think would be minimum. There might be some Nebraska companies that do film production, but to reach that million dollar threshold per that production is sometimes difficult to see that happening with some of the existing production companies. But there are some people from the film association who will testify after me that can provide, I think, more of an industry perspective on your question. [LB1074]

SENATOR CHRISTENSEN: If we could get the film companies to come to western Nebraska, see the real stars instead of popping into Omaha, do you think we could make this a success? [LB1074]

SENATOR MELLO: Well, actually, in LB1073, I don't want to feel like I'm spending a lot of time in front of your committee, talking about a bill that's in another committee, but that was something that Senator Utter, Senator Hadley, and a few of the rural senators and greater Nebraska senators emphasized last year when I brought the film incentive bill is trying to bring more of the film production into greater Nebraska. And there's a component in the new bill I introduced last week that gives a larger tax incentive for productions that are filmed outside of metropolitan areas. So the hope would be Scottsbluff is a perfect example, a film called Elizabethtown that was filmed a few years back was filmed in Scottsbluff. And most people don't realize that it was a widely known major motion picture that was filmed in Scottsbluff, and they, after the fact, said that they would have filmed most of the picture in Scottsbluff if we had an incentive because of the scenery. Similar things that Senator Hansen said in his previous bill, the scenery that is available in greater Nebraska and the Panhandle, you won't find that in your metropolitan urban areas. [LB1074]

SENATOR CHRISTENSEN: Thank you. [LB1074]

SENATOR PIRSCH: Are there...oh, Senator Gloor, you had your hand raised. [LB1074]

SENATOR GLOOR: Thank you, Chairman Pirsch. Senator Mello, there is a real incentive for me to want to see this bill go through. Maybe I can end up ultimately dragging my son back here and pick up a part with his acting career. But, traditionally, job training programs have been geared more towards the type of jobs that we would consider to be permanent or a degree of permanency when it comes to a Nebraskan trained in Nebraska is likely to stay in Nebraska. There's sort of the mercurial component to production companies that come and go to different sites here, there, and everywhere. How do you offset the concern that we may be spending some of those monies and then the individuals pack up and travel to other states to get the benefit as opposed to Nebraska? [LB1074]



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SENATOR MELLO: Senator Gloor, that's a great question, and I think to answer it I think would be twofold. One, the added component on LB1074 I think meets that primary concern in regards to training people from out-of-state. It says that you...to qualify for it above what you have to do like every other company who applies for this funding through DED is that you would have to spend a million dollars in goods and services and employ Nebraska citizens at wages above the average prevailing wage. So it is geared towards Nebraska workers, Nebraska citizens. The underlying question I think you have though is part of the ongoing issue regarding the film industry and growing a film industry in the state of Nebraska. It's a unique industry in the sense that it's not like your standard construction company or your standard manufacturing company or your financial services telecommunications because it's...you're competing for projects all around the country essentially, and part of trying to compete for those projects as a state is having a well-trained work force in film production. So part of, you know, part of the thought is, there will be permanent...there are permanent workers here in the state and, like I say, I think there are people from the industry that will speak after me who can explain better from their perspective in regards to some of the challenges they have when we do see smaller projects come in the state to ensure that we have a trained work force to deliver, you know, competitive bids to try to bring those projects into the state and the cities. But, you know, part of it is the tourism component, too. I mean, I really think, and this bill opens up a little bit of DED's existing authority to spend out of the tourism promotion fund. That's, I think part of it is trying to...the more tourism and more promotion you get, the possibility of bringing in more productions. To have that consistent work force and consistent presence in the state has led other states like Louisiana, New Mexico to build more permanent film industry projects such as production companies, filming studios, music and sound studio, physical bricks and mortar projects that would require permanent full-time employees. But you don't get those permanent projects, permanent, you know, infrastructure until you're able to develop, you know, an existing qualified, highly trained work force that is luring in new projects that...to come into the state and after you get a certain number of projects, producers, production companies start to see the state is open for business, that it might be worth our while then to come into Nebraska to build a sound studio in Grand Island because we're seeing that we've had four or five film productions in Grand Island in the last two years. And it's cheaper for us to continue to look at wanting to do that and make a permanent presence instead of spending the money every year or every six months as we come into your state to bring in our sound equipment and everything else where we can just...we can invest and have it permanent if we're going to be doing business with your state a lot. [LB1074]

SENATOR GLOOR: Okay. [LB1074]

SENATOR PIRSCH: Thank you. Yes, Senator Langemeier. [LB1074]

SENATOR LANGEMEIER: Senator Pirsch, Senator Mello, thank you for your

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introduction. As I continue to read through this, I...the old adverb, what came first, the chicken or the egg? I get that when I read this. It's a simple bill. I've read it 20 times since I've sat here and prior to today. It talks about being eligible if you plan to spend a million dollars, and you plan to hire Nebraska citizens at wages greater than the average, you're eligible for training grants. This is where the chicken and the egg comes. I don't know that if I were coming into an area and said, you know, I'm going to hire Senator Mello off the street because I think he can run a video camera, and I'm going to pay him higher wages than probably would have to pay anywhere else. And I feel good because I really like him, so I'm going to train him, and so I'm going to pay him more, and I qualify for grants to train him because I really like ya. I don't think it's going to happen. So I guess if you really want to train them, I think we need to add just to jobs training because we want that skill force in Nebraska versus this. I mean, I guess...okay, I'm a production guy, and I just got my big bucks to make Avatar and I need to get it done, so now I'm coming back to Nebraska because I like you, and I'm going to pay you too much to run a camera than I can hire somewhere else. Are you following me? I'm not trying to be cute. I'm serious here, is I'm going to pay you too much, and I'm going to train you, and then I'm going to walk away and say, I left a hell of a trained guy in Omaha, Nebraska. Maybe I'll come back for the next movie. Is that logic? It...it's not making sense to me. [LB1074]

SENATOR MELLO: Let me...let me try to answer your question in twofold. One, the way LB1074 is written was to address the question I think Senator Gloor asked which is, the film industry, unfortunately, is not viewed as a permanent kind of job creation industry. While it does create permanent jobs, it's just those employees are essentially free agents that travel around the country to follow where the work is. And then some states that invest in this industry build a more permanent presence through their infrastructure. So LB1074, the way it's written kind of holds the film industry to actually a higher standard than every other company that really applies for any job training grant because it is a mobile industry, so that we might be training people in Nebraska. They might be training through your production company. I might get trained through your applying for this job training grant program, but that doesn't mean that I'm going to continue to stay to work in Nebraska because we might not have enough films here. That's the point, I think, is that we're training employees and Nebraska citizens, paying them, but also I might go work over in Council Bluffs on a film production there. I'm still living in Nebraska; I'm still spending my money in Nebraska, and depending on how their laws work, I might be still being paid through Nebraska as well as Iowa. The point being that the job training grant program is to help train the work force to have a more highly skilled work force, so that I think we can be competitive for different industries that choose to expand or come to Nebraska. That's the same...that same principle would hold with the film industry where you might hire me. You might have to pay me a higher wage, but it's more of an investment. I see this more of a film production company who's coming to the state willing to make a million dollar more investment, that they're also investing in the work force here because that is...that's why it's a companion bill. We

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could pass LB1074 and still not have any tax incentives in the state. LB1074 would make it more lucrative, though, for film production companies, particularly Nebraska-based ones right now to want to look to invest their money in Nebraska because while they wouldn't qualify for a film tax incentive, if they need to train and continue to train employees to get them more upgraded skills and new skills, this would be an opportunity for Nebraska-based companies, at least, to try to qualify for a production company job training grant credit, so to speak. [LB1074]

SENATOR LANGEMEIER: Okay, to follow up on that, I don't want to prolong this anymore, but you talk about the average prevailing wage. Is that Nebraska's average or is that if I get...if I do a film in Texas, and I need fill-ins, and I'm paying \$7 an hour in Texas, and I'm paying \$7.50 in California for fill-ins. Could I come to Nebraska and pay \$8 for fill-ins, and then a bring a guy from California and train him on...see what I'm saying? What is average prevailing wage? [LB1074]

SENATOR MELLO: I interpret the language in the bill on page 3, will employ Nebraska citizens at wages greater than the average prevailing wage. I interpret that as Nebraska's average prevailing wage. That's the way I interpret the bill. That's the way, at least, I think we've interpreted the bill and that, hopefully, will answer that part of your question. [LB1074]

SENATOR LANGEMEIER: Very good. Thank you. [LB1074]

SENATOR PIRSCH: Any other questions? With respect to that point then, average prevailing wage, would that be...I mean, as things start going, we don't have much of a film industry I think is the point of your bill, so that...whatever it is now, it would (inaudible)... [LB1074]

SENATOR MELLO: And the average prevailing wage would...I think the question you're looking at or you're alluding to is that the average prevailing wage would start here. But if you passed LB1074, and there were more film production companies, more companies got the job training grant funds, the average prevailing wage would probably increase and, thus, would make it more difficult in the future. You would have to pay your people more as, you know, as the fund would require because you'd have to meet that average prevailing wage or greater than, and the wage increase will only happen with the more film productions you have. [LB1074]

SENATOR PIRSCH: Senator Langemeier, did you have a question? [LB1074]

SENATOR LANGEMEIER: I guess...thank you. I guess...like I said, I should get away from this, but my fear would be and visualize this with me is, is I need two cameramen, and I want to train two cameramen or women, and I'm going to bring those individuals with my crew from California to Omaha or Grand Island or Scottsbluff, Nebraska. But

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now I've got to get this prevailing wage, and in Nebraska the prevailing wage, I would assume, is our state average, and I don't know what that is. Let's say it's nine bucks an hour. And in this particular movie, I'm going to need 200 fill-ins, and in California the prevailing wage is probably 12 bucks, okay? So I can come to Nebraska where the prevailing wage is eight bucks for these fill-ins. I could pay them nine bucks which is still a lot cheaper than California because I need 200 of them, and I'm going to build a lot of sets. So that we're going to get that million dollars anyway, no matter where we go, but I can pay a dollar more an hour for all these fill-ins, and then I can use these training funds to train the two cameramen or women that I brought from California. [LB1074]

SENATOR MELLO: Well, under the...the way the language is here, you couldn't train the people from California because they have to be Nebraska citizens. [LB1074]

SENATOR LANGEMEIER: The trainees would have to...oh,... [LB1074]

SENATOR MELLO: Yes, that's what the language...that's why I say it really is trying to answer, I think, Senator Gloor's question which is the... [LB1074]

SENATOR LANGEMEIER: Okay. [LB1074]

SENATOR MELLO: ...the mobileness, so to speak, of the work force, and to qualify for our job training grants, you need to...they need to be Nebraska citizens. And the average prevailing wage component, I think, if there would be concern on the committee, by all means, I would be more than willing to work with the committee to tighten up that language if that's a concern to make sure that that impacts only Nebraska's prevailing wage, so that there wouldn't be any concern that it would be dealing...we'd be basing our laws off another state. You pick the state's prevailing wage. So if that would need to be tightened up, I have no problem doing...working with the committee to do that. [LB1074]

SENATOR LANGEMEIER: Sure. [LB1074]

SENATOR PIRSCH: Thank you, Senator Mello. Any other questions? Seeing none, we will move on to the first proponent of LB1074. [LB1074]

MICHELLE SCHRAGE: (Exhibit 1) Good afternoon. [LB1074]

SENATOR PIRSCH: Good afternoon. [LB1074]

MICHELLE SCHRAGE: My name is Michelle Schrage, S-c-h-r-a-g-e, and I come before you today as a representative of the Nebraska Film Association along as a representative of the visual arts community in both Omaha and in Nebraska as a whole. I grew up in Gretna, went to school in Lincoln, and have resided in Omaha for the past

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seven years, though I have family all over the state--Scottsbluff, Ord, Clearwater. When I went to college, I struggled with what I wanted to do with my life. I was active in high school and knew I was going to be active in college, and I wondered how I could best be active as a contributing member of society after college here in Nebraska. In my heart, I really wanted to be a theater major, and no offense to my hundreds of friends who did get their theater degrees, but I thought, what the world am I going to do with a theater major and theater degree in Nebraska? So I entered into the business college at UNL. My junior year I decided that I wanted to go and audition for a play at the Temple Building, which at the time was reserved for those in the College of Fine and Performing Arts. I got the lead in a play. For the next three months of rehearsals and performances, I was known as the business major who infiltrated the arts scene. I support that could be a metaphor for my past seven years. I've been involved in financial services as a professional for seven years and been actively involved in the arts as a passion on the side. As we mentioned, we all need a side business, specifically in filmmaking, and filmmaking is most certainly a business. If you've read any of Malcolm Gladwell's books, he has a book called the Tipping Point in which he talks about connectors, connectors of people. I am a natural networker and very active in both the Omaha and Lincoln Chamber of Commerces, among many other organizations. God has certainly made me a connector. Over the past several years, I have connected with hundreds and hundreds of people who are passionate about filmmaking in Nebraska. Some of them are like me who have careers and try to be involved in projects as they come, scarce as they are. Some of them actually make a living being fully employed as filmmakers, but most of them are intrigued by the idea of filmmaking and wonder why we don't have more films and productions made in Nebraska. I have literally had about a thousand conversations with business owners, business people who think why is this not in our state? And as someone who has been fortunate enough to be cast in films, commercials, industrials, people do often ask me, how in the world do I get involved in that? That's really cool. How do I get my movie made? It's a hard question to answer. Like myself, those who have a passion for filmmaking find it extremely difficult to know what outlets are available to exercise that passion and talent. Those who want to do theater can go to dozens of local community theaters and get training. Those who want to sing and take lessons, paint, dance, be in a band--usually there are several outlets for that. It's not the same for film. I get stuck trying to tell people where to go, how to get involved, how to hone their craft. We have amazing film departments at our college, but in order to be a contributing member of society and employ their education in film, they have to leave the state. There's not enough work. Therefore, we have an incredible brain drain of talent in our state which makes on-the-job training difficult to come by. This bill helps to build the infrastructure necessary to give our talented and passionate people an outlet to get the proper training. There's nothing more frustrating than having hard-working dedicated people who are excited about learning a craft and not having anywhere to exercise that craft and get hands-on training for it. We want to attract more films to come to Nebraska and employ our people. I've been on big and little movie sets, and they don't want to fly out hundreds of cast and crew members from New York, L.A.,

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Chicago; they want to hire locally. Selfishly, I want them to hire locally as everyone here should. We need to be sure that we have people ready to go for them to employ. Right now the film industry is bubbling right under the surface in Nebraska. I quickly want to give you some examples of organizations that have formed the beginning structure of a film community here in Nebraska which may address the question about training people who may leave. Projects come and go, but believe me, the people are here to stay, and they want to bring the industry to us. They don't want to go out and get it. We're Nebraskans; we love it here. Organizations...they're on the handout here...The Nebraska Film Association, The Nebraska Film Group, The Omaha Film Festival, Nebraska Independent Film Projects, The Nebraska Writers Guild which has over 200 members and I'll tell you, I have read some amazing scripts about Native Americans, about ranch movies, westerns. Westerns are making a comeback. These scripts need to be made, and they want to make them here. They want to go to western Nebraska just as they want to stay in Omaha and Lincoln. Middle of Nowhere Film Festival; Lew Hunter's Writers Colony. Production companies, just a handful--NorthSea Films, West Omaha Films, Avenue Pictures, King Penguin Productions, Oberon Entertainment, Skyline Entertainment, Roommate Productions--I have worked with almost all of them. Talent agencies that have brick and mortar--Talent Works, Reel People, Take 1, Actors, Etc. We're right under the surface. We just need some infrastructure to really make it pop. We're at the beginning stages of something really exciting and productive in our state. With this bill, we are starting training creation which will then lead to job creation which will then lead to career creation which will then lead to industry creation; one that is sustainable, responsible, already in existence. It's a green business. Yes, it comes and goes, but they give us their money. They clean up and leave--no smog, no pollution. They use our people. It's productive to the growth of our state, revenue generation, talent attraction, and talent retention. In ten years, we can look back at this time and know that we were all on the ground floor of building the filmmaking industry in Nebraska, and I hope you will find that as exciting as I do. Thank you. [LB1074]

SENATOR PIRSCH: Well, thank you very much for your testimony. Are there any questions? Okay, well, seeing none, I appreciate those words, and we'll move on to the next proponent. [LB1074]

MARK HOEGER: (Exhibit 2) My name is Mark Hoeger. That's spelled H-o-e-g-e-r. I am president of the Nebraska Film Association. I'm also president of Oberon Entertainment which is a film production company based out of Omaha, so I have direct knowledge of a lot of how this industry works in terms of employment and so on. I also am an adjunct professor at UNO in film, and so I can see how this process could all potentially work together, so you're really lucky to have me here (laughter). But I guess I come (inaudible) in terms of housekeeping. I have a letter here from Jim Sheard who is the secretary treasurer of the Teamsters Local Union 554 out of Omaha, representing a number of unions in Omaha that are very interested in this bill and continue training within the state. I'd like to enter that into the record, if I may. The first thing I want to

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emphasize is the nature of how employment in this business works. Production companies are essentially contractors, general contractors. And when we get a contract to make a particular commercial or to make a feature film or a music video for Chip Davis or whatever, we go and assemble the crews and the talent necessary in order to produce that film in the same way that a contractor would subcontract an electrician or drywallers or painters, depending upon the project that was needed. So nearly all of the people we employ are not employees of Oberon. They are subcontractors that we employ. And, for example, we're shooting a Nebraska Furniture Mart spot on Wednesday. Much of the ten-person crew we'll use on that on probably Thursday or Friday will be working for one of our competitors. So they are permanent work force that exist as talent in the state, and they move from contractor to contractor, depending upon where the jobs are at. And the big value of having feature film production come into the state is that that is the best and most prestigious training that you can get in this field. The people...you know, saying that you have worked on a crew in a feature film is the difference between saying, I got through basic training or I'm a veteran of special forces action. I mean, that's the difference between your credentials as a potential worker in this field. So many of the individuals, the local hires, and there would be the majority of folks who are local hires that would come in for a feature film...that production company may leave, but that work force stays, and they now may be working...go back to working and making, again, more Nebraska Furniture Mart spots because, believe me, they're endless, and then when the next feature film comes, they can work on that. And so having feature films come to this state would tremendously increase the potential work force, not only for feature films but also for the burgeoning form of motion picture communication. What's happening in terms of, traditionally, most of our business was television commercials--80 percent I would say just four years ago. Now 80 percent is producing things for on-line streaming video, and the market for that is increasing tremendously. So I think that this bill combined with (LB)1073 offers tremendous potential for growth of a new and exciting industry for Nebraska. We're working very hard on (LB)1073 to make it truly revenue neutral and even make money for the state. And if it doesn't...and I told the Governor this, then let's not do it. You know, this needs to be a revenue positive thing in terms of just tax revenue for the state as well, too, as well as creating exciting image and work force retention in the state. And I'm open to any questions you might have about the particulars. [LB1074]

SENATOR PIRSCH: Thank you. Are there any questions for Mr. Hoeger? Yes, Senator Gloor. [LB1074]

SENATOR GLOOR: Thank you, (Vice) Chairman Pirsch. Mr. Hoeger, to the extent I understand this business, and I will admit, not a lot, but I do know there are a lot of components to it. And we're talking about some of the trained people who might be part of a production company, but there are issues around the site that gets selected. There are issues about having the right kind of site. There are issues around once you pick the site, can you get a catering service there? Once you get the catering service, do

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you...how about extras? Do you have enough extras that are available? And I know we used to, many years ago, we did...what was it? America that was a television mini-series, and I think part of the decision in filming it in the eastern part of this state was because they can get access to a lot of college students who would serve as the extras that they needed for that production. I guess my point is, trying to get a handle on whether what we're talking about here is important enough to make a difference in and of itself as opposed to all the other components to go into films, television, and whatnot. [LB1074]

MARK HOEGER: Yeah. Well, you're exactly for somebody who doesn't understand the business, you're exactly right. [LB1074]

SENATOR GLOOR: I have a starving son. [LB1074]

MARK HOEGER: There we go, very good. Yeah, when a film company starts searching for where are they going to take the film, there's a whole list of factors that come in. Incentives are part of that package, but also as you said, infrastructure and the availability to service the film at the level that's needed. And Nebraska has a good experience, and the filmmakers that have come here have had a good experience in terms of...we have about two crews' worth of highly skilled and experienced crews to fill those basic positions, and, again, the director of photography probably is going to come from Los Angeles, but the assistant cameraman is probably going to be somebody from here in Nebraska. And in terms of the catering, those kinds of things, we do have a pretty good infrastructure for one or two films at the most at a time. We'd like to get that up larger. So I think that the...but what could make a big difference is to say, if I was a production company coming in and knowing that these funds were available, I could take somebody who has had limited experience, or they graduated from a community college and have some basic knowledge and say, I can bring them on to my production, and they're going to be apprentice to maybe the guy I do bring in from Los Angeles. And, for example, my partner, Andy Anderson, that's how he got his start as a director of photography. The Indian Runner came to town with Sean Penn; it was his first production. Jim Glennon was the director of photography on that. He came to Jim and showed him his reel. He had just graduated recently from UNO. Jim was very impressed, and he made him his camera operator, and mentored him, and now he's a qualified director of photography himself. So that's the kind of process that we envision through this bill. [LB1074]

SENATOR GLOOR: Okay. Thank you. [LB1074]

SENATOR PIRSCH: Super. Thank you. Any other questions? Seeing none, thank you very much for your testimony, Mr. Hoeger. [LB1074]

MARK HOEGER: (Exhibit 3) I meant to mention this, too. This is a report that was done



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by Stu Miller who is the deputy director of the Department of Economic Development, retired. Some of you on Revenue have seen this already, but I thought it might be interesting for the rest of the membership as well too, which basically shows that what we're trying to do is generates about 8 cents additional revenue for every dollar that's invested in the process, so it's a net revenue gain for the state. [LB1074]

SENATOR PIRSCH: And we're having that passed around, so thank you very much. Next proponent. Are there any opponents? [LB1074]

DANA MARKEL: Senators, I'm Dana Markel with the Nebraska Travel Association. Dana Markel, D-a-n-a M-a-r-k-e-l. I'm representing the Nebraska Travel Association, but I will say I'm also the executive director of the Omaha Convention and Visitors Bureau which houses the Omaha Film Commission. It's with a heavy heart that I oppose LB1074, and the sole reason is, we are not in favor of using tourism promotion dollars for training...job training grants. While our industry and my operation in Omaha were very interested in growing film in Nebraska, we are just opposed to using promotion dollars. We already lean on our tourism promotion dollars, and we just don't think it's the best use to use this for job training. In the testimony, previously, there were a lot of good reasons to offer training, but they really didn't return to tourism benefits. And just to be careful that we don't mix our messages, I know there's another incentive bill. I think much of the testimony could apply to that bill also. And incentives, indeed, would bring...would make us more competitive. [LB1074]

SENATOR PIRSCH: Very good. Any questions? Seeing none, thank you very much. Are there any other opponents here today to testify? Seeing none, we will move on to those here to testify in a neutral capacity. Seeing none, we will see if Senator Mello would like to close. And I think he's talking about that right now. [LB1074]

AUDIENCE: (inaudible) negotiation. [LB1074]

SENATOR PIRSCH: Yeah (laugh), that's man negotiations. [LB1074]

SENATOR MELLO: Thank you, Vice Chairman Pirsch, members of the committee. By no means, I...Ms. Markel and myself will have a conversation afterwards in the sense that no way did we want to look to take money from tourism to spend on job training. I think I was under the assumption, the way the article reads, is that we included film production to be used as DED could use the money to promote film. Then not to use it for job training, but the way at least I understand the language is that it just adds a component under...to develop...promote and develop the tourist potential of the state including films, television production, the things that we've listed earlier in the bill, so just trying to make it consistent that DED looks to spend tourism dollars on promoting projects that are done in Nebraska. But that's still not the point. That never was the main focus of this bill, and as I was...was...I'll talk with Ms. Markel and the travel association

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afterwards. We're not...in no way...and I would be offended to make sure that we take that component out of the bill because the main component is the job training aspect to provide access for industries to gain access if they not only meet the existing threshold, but the threshold of the \$1 million spent in Nebraska as well as hiring Nebraska citizens with the above average prevailing wage. That is the main component and the meat, quote, unquote, of the bill that...some of the questions that Senator Langemeier brought up, would be more than willing to tighten that language up to ensure that it won't impact the prevailing wage, so to speak, of other states. So with that, I will take any other questions. [LB1074]

SENATOR PIRSCH: (Exhibit 4) Very good. Any other questions? Seeing none, I will just announce a letter, for the record, from one Devin Meisinger, President of Nebraska Economic Developers Association with respect to opposition for LB1074, and that will conclude then this hearing, and thank you all for coming and testifying today. And that will conclude all the hearings for the day. [LB1074]