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Transcriber's Office

General Affairs Committee
February 02, 2009

[LB137 LB232 LB262]

The Committee on General Affairs met at 1:30 p.m. on Monday, February 2, 2009, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB137, LB232, and LB262. Senators present: Russ Karpisek, Chairperson; Kent Rogert, Vice Chairperson; Colby Coash; Tanya Cook; Merton "Cap" Dierks; Annette Dubas; and Scott Price. Senators absent: Mike Friend. [LB137]

SENATOR KARPISEK: Good afternoon. We'll get started today. Welcome to the General Affairs Committee. I'm Senator Russ Karpisek from Wilber, and I'm Chair of the committee. Members to my far right are Senator Coash of Lincoln; Senator Friend will be absent today; Senator Dierks will be late; Senator Rogert is introducing a bill in Education, I think; Josh Eickmeier is legal counsel for the committee. On my left is Senator Dubas of Fullerton; Senator Cook of Omaha; Senator Price of Bellevue; and Joan Snyder is our committee clerk. The page who is helping us today is Courtney Ruwe of Herman. Today we'll be hearing three bills: LB137, introduced by Senator Avery, although Senator Avery won't be here today so his LA will be doing that; LB232, introduced by Senator Nordquist; and LB262, introduced by Senator Rogert. After each bill is introduced, we would like to hear testimony in support of the bill first, then opposition, and finally neutral. If you're planning on testifying in any capacity, please pick up the sign-in sheet that is on the table in the back of the room at each entrance. And when you come up, please bring them to Mrs. Snyder. Fill it out before you testify--I got ahead of myself. Give it to one of the pages or to Mrs. Snyder so we can have the record of who you are and what you're doing...what you're testifying on. It will help make a more accurate public record. If you have any handouts, please make sure that you have ten copies for the page to hand out to the committee. When you come up to testify, please speak clearly into the microphone; tell us your name and spell your first and last name. Also, please tell us whom you are representing, if anyone. Please turn off your cell phones, pagers, or anything else that beeps. Make your conversations minimum or take them out in the hallway for your cooperation. Also, senators may be coming and going today. Don't take it personally. We have other committees that are testifying today, so if someone is leaving, it's not just because they don't want to hear your testimony. Now, for our first bill is LB137, Senator Avery's legislative aide, Nicole Kanne, is here to introduce. Welcome. [LB137]

NICOLE KANNE: Good afternoon, Chairman and committee members. My name is Nicole Kanne; it's N-i-c-o-l-e K-a-n-n-e. I am the legislative assistant for Senator Avery, who could not be here today. Senator Avery has introduced LB137 to create a western boundary for the University of Nebraska-Lincoln campus. Precedent put setting a border was initiated several years ago when an official southern boundary was established for the University, with the dual purpose of serving university and student needs and preserving the rights of downtown business owners to retain liquor licenses. Establishing a western boundary will again recognize the educational and safety needs

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

General Affairs Committee
February 02, 2009

of students while allowing the university, the city, and private entrepreneurs to exercise flexibility in 2015 expansion projects. As a partner in the 2015 initiative, the university is committed to developing a portion of the Haymarket district, that will include as its flagship project an annex to the Sheldon Museum of Art, referred to as the Sheldon Haymarket. Other portions of this expansion project include a hotel, restaurant, and a variety of retail shops. Enhancing the Haymarket district with this innovative proposal provides additional economic development opportunities for the Haymarket, as well as expanding a diverse educational environment for our students, faculty, and staff. Over the past several years, Lincoln has experienced growth among its young professionals, and like the university, it strives to create an atmosphere that provides opportunities which will enhance the educational, cultural, and social experiences of our young people. The university Sheldon Museum of Art showcases a premier collection of American art and is recognized as an international institute of art, which circulates and receives its collections from museums worldwide. Sheldon has one of the most important collections of American art nationally, and its permanent collection includes over 12,000 works of art in diverse mediums. Unfortunately, however, Sheldon is currently challenged by space limitations and cannot display its entire collection of prints, sculpture, and media exhibitions. The Sheldon Haymarket project aims to provide enhanced resources to university students who regularly attend art classes or view collections as part of their curriculum. The Sheldon Haymarket expansion project will provide the university an opportunity to further engage students and citizens through educational outreach programs, classes, lectures, workshops, and archival studies. In addition, as a center for art and education, this new facility will provide educators the opportunity to work with Nebraska grade school children in learning about Arts and Humanities, and extend the arts to typically underserved populations. Partnering with the local business community, the university hopes to provide first-rate resources that will attract students, families, and visitors to the Sheldon Haymarket as a vibrant attraction employing new technologies that draw regional and national attention. Defining the westernmost boundary of the university will allow for the Sheldon Museum of Art to expand into the Haymarket district, while simultaneously allowing current businesses to continue serving citizens and providing the university, the city of Lincoln, and private entrepreneurs flexibility in developing the Haymarket district. On behalf of Senator Avery, thank you for your time today. And I have several experts here that can answer questions for you. [LB137]

SENATOR KARPISEK: Thank you, Ms. Kanne. [LB137]

NICOLE KANNE: Sure. [LB137]

SENATOR KARPISEK: Are there any questions for her at this time? If not, thank you. [LB137]

NICOLE KANNE: Thank you. [LB137]

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

General Affairs Committee
February 02, 2009

SENATOR KARPISEK: The next proponent. Welcome. [LB137]

RON WITHEM: (Exhibit A) Thank you, Senator Karpisek. For the record, my name is Ron Withem, W-i-t-h-e-m; first name, Ron, R-o-n; registered lobbyist for the University of Nebraska, here to talk with you a little bit about LB137. I believe Senator Avery's legislative aide did an excellent job of explaining to you what the university's goal is in the Haymarket. What the map I'm passing out to you, and hopefully my testimony, will do is offer you an explanation as to why we need a western boundary defined in statute. It has to do with the liquor laws of the state of Nebraska which say that you cannot have a liquor license within 300 feet of a university campus. Our concern is, without a statutory definition of what the western boundary is, that when we expand into the Haymarket area with this building that Nicole described to you, there may be a tendency to define that building as part of the university's campus and thereby prohibit any liquor licenses within 300 feet of that building. The plans for development of that area call for a mixed use, with university facilities, restaurants, hotels, other facilities that may wish to, in order to serve the public, to have a liquor license. So what this bill would do is quite simply define 10th Street, and you have the map showing you the proposed 10th Street boundary, as the western boundary. And then in this lower left-hand corner, this colored space--I'm assuming it's red, but I'm color blind, so it may not be exactly red--will be the university expansion along with a...hopefully, a hotel or restaurant or retail facility. For those of you that are familiar with that area, it's where the Nebraska Book warehouse is at this point. That building would become, then, a university property, but it would not be on the campus for purposes of the liquor statute. Precedent was established, we believe, I didn't find out exactly when, back in the 1990s. I refer you to the second map where we came before the Legislature and defined R Street as the southern boundary. And that was done, again, because of these red buildings that were becoming university property, university functions for things such as the Lied Center, the Anderson School of Journalism...other activities were moving southward down to the area where there are established restaurants and hotels and bars, and so the Legislature defined R Street as the southern boundary so that that would be the point from which you would be measuring the 300 feet. If there are any particular questions about the university and liquor questions, we have Chris Jackson from the...who is the vice chancellor for business and finance at UNL who can answer your questions. I believe we also have somebody here representing 2015 that can answer any questions you might have about the development. So with that if you have any questions you want to have me stumble with first, before I refer them on to the people with greater knowledge, I'll be happy to try. [LB137]

SENATOR KARPISEK: Thank you, Mr. Withem. Are there any questions for Mr. Withem? Senator Dubas. [LB137]

SENATOR DUBAS: Thank you, Senator Karpisek. Thank you, Mr. Withem, for being

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

General Affairs Committee
February 02, 2009

here. Is there a need for us, or is there already a northern and an eastern boundary?
[LB137]

RON WITHEM: At this point there's no need...there is no eastern or northern boundary. We thought, at this time, we would like to make the proposed change as simple as possible, so the answer's no. [LB137]

SENATOR DUBAS: Okay. So then anything on that western and southern boundary, then, nothing within 300 feet can have... [LB137]

RON WITHEM: Right. That's my understanding. [LB137]

SENATOR DUBAS: ...of that boundary. Okay, thank you. [LB137]

SENATOR KARPISEK: Thank you, Senator Dubas. Any other questions for Mr. Withem? If not, we'll have the next proponent. [LB137]

RON WITHEM: Thank you. [LB137]

SENATOR KARPISEK: And joining...thank you, Mr. Withem. Joining us now is Senator Rogert from Tekamah, he's the Vice Chair of the committee. [LB137]

BARBARA ARENDT: Good afternoon. Barbara Arendt, A-r-e-n-d-t; vice president, Lincoln Haymarket Development Corporation. We're the not-for-profit governing board of the Haymarket businesses and residential area. We are just here to favor...we're proponent for this bill. Being located in the Haymarket, we think it's important for the university to define its western boundary...10th Street. And particularly the ever-increasing developments going on in the Haymarket, we think it's important to have a defined boundary at this point in time, to encourage development. Any questions?
[LB137]

SENATOR KARPISEK: Thank you. Do we have any questions? If not, I may just quickly...if this would happen, they expand west, you're concerned that a lot of your current businesses in the Haymarket may not be able to get a...keep their liquor license if we don't adjust, or make the boundary set? [LB137]

BARBARA ARENDT: Well, yeah. At this point, 10th Street does not have any...we have no problem with 10th Street. So in answer to your question, we would...10th Street we agree on. Any farther west there, you know, there might be some issue in the future that we would be concerned about. [LB137]

SENATOR KARPISEK: There may even be some businesses that are already established that may have to give up their liquor license if it's not set at 10th Street.

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

General Affairs Committee
February 02, 2009

[LB137]

BARBARA ARENDT: Correct. [LB137]

SENATOR KARPISEK: With the new building. [LB137]

BARBARA ARENDT: Correct. [LB137]

SENATOR KARPISEK: Okay, thank you. Any other questions? Thank you for your testimony. [LB137]

BARBARA ARENDT: Thank you. [LB137]

SENATOR KARPISEK: Next proponent. Welcome to the General Affairs Committee. [LB137]

KENT SEACREST: (Exhibit B) Good afternoon. My name is Kent Seacrest. I'm working with 2015 Vision, who is a group of Lincoln community and business leaders trying to do ten pillars in our community, and one of them is the Arts and Humanities block, which is the block that is most impacted by this piece of legislation. I've handed... [LB137]

SENATOR KARPISEK: I'm sorry, spell your name for us, please. [LB137]

KENT SEACREST: Excuse me. Kent Seacrest, S-e-a-c-r-e-s-t. [LB137]

SENATOR KARPISEK: Thank you, Mr. Seacrest. [LB137]

KENT SEACREST: I've given you a handout which is just an overview of the ten projects that 2015 is trying to do...get started by, or complete by, the year 2015. One of them you will see on that map is called the Humanities and Arts Center. The second pages are just trying to show you some artistic renderings of what that block could look like; and the third is actually an aerial of the current block, trying to show you what the Arts and Humanities block could all be about. You will see in the southeast corner of that block is the proposed Sheldon Haymarket. This would be an expansion of the Sheldon Museum, and it would be an opportunity to bring the art closer to patrons that are eating, dining, and doing sports activities in the Haymarket area. You will see, then, in the southwest corner of that block is a proposed Arts and Humanities hotel, being undertaken by WRK and its partner, Woodbury Corporation from Salt Lake City. That facility, hopefully, will be a real first-class hotel; not only with restaurants and lounge, but room service that would be able to have food and alcohol as well. You will see that it's within the 300 feet limitation that the present law...that the laws would say if Sheldon Haymarket is deemed part of the university campus. It's not clear how you define the campus, but definitely when you have a university art gallery that would be in the block,

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

General Affairs Committee
February 02, 2009

it starts to run that line...is that part of the university campus or not? This bill would take care of that cloud and make it clear that the campus is over on 10th Street and is not over in the Haymarket area. We also have an existing business that maybe you've been to--the Sawmill property, which is Bread and Cup restaurant. Again, it has a wine and spirit liquor license, and the way the liquor law is presently worded, if it's there for over two years it would be grandfathered if the university came onto the block as part of the campus. If it hasn't been there for two years, which it hasn't quite yet, it would have to give up it's license. So we have several fact patterns here. We also have, right across the street, the Del-Ray Ballroom and Lounge--that's an existing one that's been there for over two years. But if it ever wanted to expand its liquor license, it would not be able to unless this law were to go forward. This law probably also has another impact on one of the 2015 pillars, and that's the West Haymarket Arena: the new home, hopefully, for not only the city auditorium and venues and concerts, but also the mens and womens University of Nebraska basketball team. If the practice basketball facility if it were built next to the arena--if that would be deemed a classroom, which it could be, then all of a sudden the university would have another 300-foot rule that would apply to perhaps the new West Haymarket Arena. And again, there are definitely plans there for another hotel and restaurants and entertainment, so. This bill does what the Legislature saw fit earlier, that Ron Withem mentioned, and that was to define R Street as the south boundary so that the university could blend in and do town and gown partnering on Lied Center and other things on the south end, without interfering with liquor licenses. And now we're just saying the same thing for the west, so that it can be a good neighbor to the West Haymarket and bring in things like...as Sheldon Gallery Number 2, which is Sheldon Haymarket, as well as, perhaps, the West Haymarket arena. And with that I'd be glad to answer any questions you might have. [LB137]

SENATOR KARPISEK: Thank you, Mr. Seacrest. Any questions? Senator Price. [LB137]

SENATOR PRICE: Thank you, Mr. Chairman. Sir, just a quick question; I don't know if you'll have the answer. What is the current traffic to the Sheldon Museum or the facility? [LB137]

KENT SEACREST: I would probably allow the university to answer that. I once heard 50,000 a year, but I could be off on that number. [LB137]

SENATOR PRICE: Thank you. [LB137]

SENATOR KARPISEK: Thank you, Senator Price. Any other questions? If not, thank you. [LB137]

KENT SEACREST: Thank you. [LB137]

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

General Affairs Committee
February 02, 2009

SENATOR KARPISEK: Next proponent? Do we have any opponents? Any neutral testimony? And I'd like to say that Senator Cap Dierks has joined us, from Ewing. Welcome. [LB137]

HOBERT RUPE: Thank you. My name is Hobert Rupe. I'm the executive director of the Nebraska Liquor Control Commission. Thank you, Senator Karpisek, and senators of the General Affairs Committee, for allowing me to testify. We testify neutral in this capacity as generally the commission doesn't take positions on this side. We'll let you know that the commission was so involved with the 2015 pillars, once we were made aware of it, we made them aware of the possible impact of the 300-foot zone might have on that western boundary of the campus; and also that there had been a precedent set, I believe back in the early '90s, for the defining of R Street. Now I will clean up a couple of questions. I think it's an open question whether it would impact current licensees. There is a two-year statute where in 53-177 (1) which is the church and schools and home for the aged and indigent clause; there's a two-year grandfathering clause in that part of the legislation, which effected the university here, although we're amending 53-103, the definitional clauses, is really the impact that 53-177 (2) has, and this one says 300 foot. And there's a couple of exceptions--we'll probably go more into that on the next bill which is actually seeking to amend that one. There is no such grandfather clause in that subsection, so I'm not sure that it would not have an impact on existing licensees, given the way the bill is currently drafted. As said before, this was a issue that the commission was aware of beforehand, and that we reminded them, the university, apparently we have longer memories--that they had this issue 15 years ago or more, and that was how they handled it there. So I'd be happy to answer any questions regarding the impact of how this will work on the commission. [LB137]

SENATOR KARPISEK: Thank you, Mr. Rupe. Any questions for Mr. Rupe? Senator Dubas. [LB137]

SENATOR DUBAS: Thank you, Senator Karpisek. Thank you, Mr. Rupe. Since you raised the issue about, maybe there's a little grey area on the grandfathering, is that something that a determination could be made on beforehand? [LB137]

HOBERT RUPE: We could do a...you know, we do have the opposition to do a (inaudible) to issue, which is called a declaratory ruling. Unfortunately, our ruling would have some impact, but it would depend on finally how a district court would look at that depending if there was a case on it. The clear thing is, is that the proposed bill right now, where it would define 10th Street as the western boundary, there wouldn't be a problem there because all those...all the existing licensees currently are more than 300 foot from where the university is currently situated. It would depend on what...if the university moved west of that line, what impact that would have on those existing licensees. It...my thought would be...I would lean..okay, this is...it's not a full declaratory

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

General Affairs Committee
February 02, 2009

ruling, I would lean toward you would lose the language in the companion statute to set up the grandfather clause. And I think that would be the way the commission would probably look at it fully. But we...but it would probably have to have an Attorney General's opinion as to whether it fully would impact on that...it's impact would have. [LB137]

SENATOR DUBAS: So it would probably take them a specific case to really make that determination. [LB137]

HOBERT RUPE: Yeah, it would. Or at least an AG's opinion. [LB137]

SENATOR DUBAS: Thank you. [LB137]

SENATOR KARPISEK: Thank you, Senator Dubas. Senator Price. [LB137]

SENATOR PRICE: Mr. Chairman, thank you. Sir, quick question. Historically, what problems have cropped up from the southern boundary? [LB137]

HOBERT RUPE: The southern boundary came into effect as the university was moving south and was building such places as the Lied Center and, I believe, the School of Journalism. There were a couple of licensees who were looking to go in, I'll give...the best example I can think of is the Embassy Suites. The Embassy Suites would be, probably, within the 300 foot, if you're measuring from where the Lied Center is, or perhaps from the School of Journalism. And there are also some other places, probably primarily restaurants, on P Street which would have been impacted. Now the key thing to remember about the prohibition 177 (2) is a sort of a weird duck, I mean, for lack of a better word. What it does, it prohibits the on-premise consumption of wine and spirits. You can have beer; you could have off sale within that 300-foot zone; but you can't have the on-premise consumption--which is traditionally bars or restaurants because they want beer, wine, and spirits. So I think the impact was, you know, that was one of the concerns, because I know that when Embassy Suites was concerned, building in the downtown area, you know, hotels generally like to have liquor licenses and that would have impacted them, and that was one of the concerns I know the Embassy Suites looked at when they built where they're at. [LB137]

SENATOR PRICE: So does that mean, like, what Senator Dubas said: we didn't have any cases of things being grandfathered in? None of this was exercised for the southern boundary when it was implemented? [LB137]

HOBERT RUPE: Well, when R Street is...there's nothing within, there's no places within 300 foot of the southern boundary, currently. [LB137]

SENATOR PRICE: Okay. [LB137]

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

General Affairs Committee
February 02, 2009

HOBERT RUPE: And so when they determined that, there was not a preexisting business that would have impacted. The theory was that if the boundary continued to encroach southward, that's when we'd have the...that's when it's sort of set in stone, where the southern boundary was. [LB137]

SENATOR PRICE: Thank you. [LB137]

SENATOR KARPISEK: Thank you, Senator Price. Any other questions? Thank you, Mr. Rupe. [LB137]

HOBERT RUPE: Thank you, Senator Karpisek. [LB137]

SENATOR KARPISEK: Any other neutral testimony? If not, that will end the hearing for LB137. We'll now move to LB232. Senator Nordquist. [LB232]

SENATOR NORDQUIST: Thank you, Mr. Chairman, members of the committee. My name is Jeremy Nordquist, and I represent District 7 in Omaha. LB232 would allow community colleges, with culinary education programs, to apply for and receive a catering license and a Class I liquor license under the Nebraska Liquor Control Act. Under the bill, a community college would only be able to sell alcohol on campus if the event was held by the culinary education program. The college would be able to sell alcohol off campus only if the event was catered by the culinary education program and it was a part of the program's required curriculum. Contemporary culinary education demands comprehensive, real-world experience in the culinary arts. By making strictly controlled alcohol licenses available to the state's community colleges, this bill would allow culinary schools to offer better and more realistic education to prepare their students for a career in the culinary arts. There will be folks testifying after me from Metro Community College, which currently has the state's only culinary program. They can give you more detail about the process they have to go through now and why they are advocating for this legislation. Thank you. [LB232]

SENATOR KARPISEK: Thank you, Senator Nordquist. Any questions for Senator Nordquist? If not, thank you. We'll ask for the first proponent of LB232. [LB232]

JIM TREBBIEN: Mr. Chairman, members of the committee. My name is Jim Trebbien, J-i-m T-r-e-b-b-i-e-n. I'm the dean of the Institute for Culinary Arts for Metropolitan Community College. Our program, which was started with the college in 1974, has grown from less than 40 students to close to 600 students in the last 15 years. We have...about 25 percent of our students have advanced degrees when they come to our program. And currently, in order to accommodate that growth, we're building a new building at the south end of our campus, which would be at 32nd and Sorenson in Omaha. It's going to have two floors. On the main floor would be a number of training

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

General Affairs Committee
February 02, 2009

kitchens; one of them which includes a bistro, our Sage Bistro, and the other one is a conference center on the upstairs, which could include up to 600 people for a meal. Currently, we teach our students to serve safe alcohol--safe handling of alcohol. What we're asking for is the right to continue to train our students within the law. We need...students need practical experience in this: wine and food, especially, go hand in hand. Our community needs our graduates and our students in the industry. We train them on matching selection, buying...all parts of alcohol, just as with food. I want to emphasize that what we're asking for is for education: to take and train and to teach people safe, responsible use of alcohol. We compete with other schools, private schools, which are out of state. We find that when students leave the state to go to the private schools that they do not come back to the state. And as the food industry's growing rapidly in Nebraska, we do need the students to stay in our state to help with our economy. We might, later on, plan to expand our offerings to train to serve safe alcohol, not just to our credit students but to non-credit students. I want to emphasize that we're not asking for a bar; we're not planning on having a bar and open it to the Metro students. We're planning on having alcohol available for our food customers to enjoy with their food when they come in to allow our students to serve them. Any questions? [LB232]

SENATOR KARPISEK: Thank you, Mr. Trebbien. Any questions for Mr. Trebbien? Senator Price. [LB232]

SENATOR PRICE: Mr. Chairman, thank you very much. Sir, quickly...how would you propose to take care with students being at the age, and I.D. checks, and things of that nature where, I mean, we could see a student under the age serving alcohol to customers and having to go through all the training necessary. I mean, could they even serve it? Why would they be a student there? I mean, it seems like we could be setting up for problems; we had a young student in a class that couldn't meet the requirements for the curriculum? [LB232]

TREBBIEN: Yes. Well, we do have to work around that. We can't have the student that doesn't meet the laws, currently, that deal with alcohol. Nor can they go out and do an internship in the community, though, either. [LB232]

SENATOR PRICE: Okay. [LB232]

SENATOR KARPISEK: Thank you, Senator Price. Senator Dubas. [LB232]

SENATOR DUBAS: Thank you, Senator Karpisek. Do you currently do catering in your program? [LB232]

JIM TREBBIEN: We do within the college, or college-related event. [LB232]

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

General Affairs Committee
February 02, 2009

SENATOR DUBAS: Do you do quite a bit of it? [LB232]

JIM TREBBIEN: No. [LB232]

SENATOR DUBAS: Do you think this would afford you more opportunities to do it? Are you requested for expanded services? [LB232]

JIM TREBBIEN: Well, we do need more opportunities because our program is growing so quickly, and so our students do need more opportunities. [LB232]

SENATOR DUBAS: Okay, thank you. [LB232]

SENATOR KARPISEK: Thank you, Senator Dubas. Any other questions? Senator Coash. [LB232]

SENATOR COASH: Thank you, Chairman. Can you speak to what your peer programs in other states are doing? Are programs similar to yours, in other states, have this ability to do that, that you're aware of? [LB232]

JIM TREBBIEN: To serve alcohol? [LB232]

SENATOR COASH: Yes. [LB232]

JIM TREBBIEN: Yes, sir. The private schools almost all do, yes. Most of those schools cost seven, eight, nine, ten times more to go to school, too; so we're trying to keep every reason for them to stay in Nebraska. [LB232]

SENATOR COASH: Okay, thank you. [LB232]

SENATOR KARPISEK: Thank you, Senator Coash. Senator Rogert. [LB232]

SENATOR ROGERT: I just want to make a comment. I've had the opportunity to attend a couple of your in-house catered meals and they are top notch. [LB232]

JIM TREBBIEN: Yes, thank you. Yes, thank you. [LB232]

SENATOR KARPISEK: Thank you, Senator Rogert. [LB232]

JIM TREBBIEN: Which I might add to...we are one of three culinary programs in the state of Nebraska. Yes, there is two other programs, too. [LB232]

SENATOR KARPISEK: What are the other two? [LB232]

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

General Affairs Committee
February 02, 2009

JIM TREBBIEN: They're at Southeast and at Central. [LB232]

SENATOR PRICE: And so, by this, they could also fall under this statute? [LB232]

JIM TREBBIEN: I believe it's for community college, yes. [LB232]

SENATOR KARPSEK: Senator Price, question? [LB232]

SENATOR PRICE: Yes I do, thank you, Mr. Chairman. I apologize. [LB232]

SENATOR KARPSEK: No, that's fine. [LB232]

SENATOR PRICE: How much, sir, do you believe serving alcohol, knowledge of alcohol, as goes with meals...how much does that...how much of the total meal does that constitute, for the knowledge there? [LB232]

JIM TREBBIEN: Are you talking about pricewise? Or... [LB232]

SENATOR PRICE: I mean, is it 30 percent of the revenue of a meal? Is it...how imperative is it... [LB232]

JIM TREBBIEN: Yes. [LB232]

SENATOR PRICE: ...to know that we want a red wine with beef and a white wine with fish and chicken... [LB232]

JIM TREBBIEN: Yeah. [LB232]

SENATOR PRICE: ...and things of that nature? [LB232]

JIM TREBBIEN: I think it's extremely imperative that the student is able to be trained to be able to do and understand that. We do a lot of that with guest speakers, for instance, right now--come and just talk about it. It's very imperative to do it. How much the revenue adds to it? It depends a lot from restaurant to restaurant. The more upscale the restaurant the more wine selection they'd have, for instance; the more profit would be derived from alcohol, yes. [LB232]

SENATOR PRICE: Okay. [LB232]

SENATOR KARPSEK: Thank you, Senator Price. Any other questions? Guess not, thank you for appearing. [LB232]

JIM TREBBIEN: Thank you. [LB232]

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

General Affairs Committee
February 02, 2009

SENATOR KARPISEK: Next proponent. Welcome. [LB232]

JIM OTTO: Thank you, Senator Karpisek, members of the committee. My name is Jim Otto, O-t-t-o. I am a registered lobbyist for the Nebraska Restaurant Association. The Nebraska Restaurant Association simply wanted to go on record in support of this legislation and offer...the graduates of these programs are very important to the restaurant industry in Nebraska. And the industry feels that this would be an important and good and positive addition. With that... [LB232]

SENATOR KARPISEK: Thank you, Mr. Otto. Any questions for Mr. Otto? Senator Price. [LB232]

SENATOR PRICE: Mr. Chairman, Mr. Otto; perhaps you could answer my last question a little better. In a meal, how much does the alcohol sales take up in the total revenue generated by that industry? [LB232]

JIM OTTO: I can...it's significant. I can't give you an exact number. I would say that when we...this is not a direct answer to your question, but when we had the smoking ban enacted in Lincoln, there was a big concern--especially among sports bars, because they serve alcohol and food, and they were concerned that they would lose a significant amount of business. They did lose a significant amount...they started selling about the same total gross, but they decreased their alcohol consumption and increased their food consumption. So I...that's not really an answer to your question, except for the fact that alcohol...and that's probably higher in a sports bar than a regular restaurant...I hesitate to throw a number out there. I just know it's significant. But I would certainly be glad to research that for you and get back to you on it. [LB232]

SENATOR PRICE: Just a general percentage, like 20-30 percent, something like that...that's all I'm looking for. [LB232]

JIM OTTO: I'm thinking it's close, but... [LB232]

SENATOR PRICE: Okay, thank you. [LB232]

SENATOR KARPISEK: Thank you, Senator Price. Any other questions? Thank you, Mr. Otto. [LB232]

JIM OTTO: Thank you. [LB232]

SENATOR KARPISEK: Any other proponents? Welcome. [LB232]

DENNIS BAACK: Senator Karpisek and members of the General Affairs Committee, for

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Transcriber's Office

General Affairs Committee
February 02, 2009

the record, my name is Dennis Baack; that's D-e-n-n-i-s B-a-a-c-k. I'm the executive director of the Nebraska Community College Association, here to testify in support of LB232. I think most of the testimony has been right on target. There are two other programs in the state: one at Southeast Community College here in Lincoln, the other one at Central Community College in Hastings. Neither of those are planning on going in this direction yet, but they may decide to do that at some point. But at this point, it's just Metro Community College that wants to go in this direction. And we feel like it's important for these students to learn about the proper rules and laws about alcohol too, because some of these students are going to go out and maybe start their own restaurants, and it's just going to be part of their life from now on out. So we think this is a good move in the right direction. With that I'd be happy to answer questions. [LB232]

SENATOR KARPISEK: Thank you, Senator Baack. Any questions? Seeing none, thank you for your testimony. [LB232]

DENNIS BAACK: Thank you. [LB232]

SENATOR KARPISEK: Next proponent. [LB232]

MIKE KELLEY: Mr. Chairman and members of the committee, my name is Mike Kelley; that's spelled K-e-l-l-e-y. I'm appearing here as a registered lobbyist for Metro Community College. I suspect I was picked as the registered lobbyist for this particular issue because I've been doing liquor law for probably about 30 years. I also own a chain of sports bars in Omaha called Clancy's, so I wear a lot of hats in this industry. So I guess I can probably answer most any questions you might have. Couple of things I want to just make clear: this is strictly restaurant related, for...this is not going to be a bar; this is to be for the culinary program. And they have a wonderful plan called the Bistro now. It's to be done in connection with that and teaching students that. Of course, students in this state can serve at 19; they can't drink until 21, but they can serve at 19. So most students would be eligible to be part of a program as far as serving alcohol. Also, Senator Price, you know, in sports bars it's about 50-50 food and alcohol; I think in most restaurants it's more like 30 percent, would be my experience. Now, of course, that can depend...depending on who you're going to dinner with, it might be 50-50; depending on what kind of wine you're drinking. (Laughter) And the beauty of this thing is, and with Senator Dubas' question, this is something, I think, that university...community college, rather, would love to expand their catering. This would allow them to do that. So they might do weddings; this would be wonderful training for these students. And again, it won't be an open bar where the students are really coming in; it's really after us, as customers. It's really not after students. It's not going to be something students are going to be going to, at least I wouldn't envision that. Because it's not going to be someplace you're going to sit around and drink. It's going to be strictly restaurant activity in conjunction with the culinary program. It's drafted very carefully, very narrowly, to just be that. So with that I hope you can move this bill on,

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

General Affairs Committee
February 02, 2009

and be glad to answer any questions you might have. [LB232]

SENATOR KARPISEK: Thank you, Mr. Kelley. Any questions? I do...maybe a statement, Mr. Kelley. I think we're all thinking of catering, or maybe I am, as the tailgate with a keg of beer. That's...is that or is that not what... [LB232]

MIKE KELLEY: No. I'm thinking of a reception for university-type activities, is what I'm thinking of when I'm thinking of catering. It wouldn't, I don't think it would be very...or possibly a wedding, Christmas party, something like that. But that would be what we're talking about here. [LB232]

SENATOR KARPISEK: The idea of dining. [LB232]

MIKE KELLEY: Yes, absolutely. [LB232]

SENATOR KARPISEK: Okay. Thank you, Mr. Kelley. [LB232]

MIKE KELLEY: Yep. [LB232]

SENATOR KARPISEK: Any other questions? If not, thank you for your testimony. Any other proponents? Seeing none; do we have any opponents? Seeing no opponents. Do we have anyone in the neutral? Welcome, again, Mr. Rupe. [LB232]

HOBERT RUPE: You're going to get sick of seeing me. [LB232]

SENATOR KARPISEK: No. (Laugh) [LB232]

HOBERT RUPE: Oh, I wouldn't say that quickly, Senator Karpisek. (Laughter) Once again, my name is Hobie Rupe. I'm the executive director of the Nebraska Liquor Control Commission. I'm testifying in a neutral capacity because, well...first of all, I wanted to say that the commission actually supports the concept and the existing bill. We support because we definitely go by the idea that training is very important in the service of alcohol. In fact, since I've got the Metro Community College people here in the back, I'll sort of say we really would hope that if they were to do this, they would incorporate one of our certified training programs as part of the curriculum because we believe that those are the way to show how to do it. What I'm up here to bring up to your...it's sort of...I'm looking at this from a macro issue right now. This is, once again, an exception to 53-177 (2). Briefly, 53-177 (2), as stated earlier, only prohibits the on-premise consumption of wine and spirits. It doesn't prohibit the consumption of beer within 300 foot of a university; it doesn't protect...stop the off-premise consumption. I'll give as an example people might be aware of: the Valentino's restaurant at 34th & Holdrege has a on sale beer-only license. It's right across the street from the East Campus, but because it's beer only, it's okay. The other issue, there's also an exception

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

General Affairs Committee
February 02, 2009

and...although now it's a tobacco place. There was a package store just about 47th and Holdrege for years. Because it wasn't an on-premise consumption, it was eligible to be within 300 foot of the university campus. All right. If you start and look at these exceptions to the rules, how it applies, and I'll...backing up...there's also an exception for non-public universities; it will cater events. Creighton did that a couple of years ago through an event. The concern that we sort of have is, you know, at least from a philosophical standpoint, certainly there are exceptions; maybe we should just look at the existing rule and determine whether that's still needed in 2009. 53-177 (2) is part of the original act from 1935. And I'll also give you some examples as to the issues that the commission has been having in enforcement of that statute of late. The first of is, you see more and more...I mean, that's what we dealt with on the other bill, the expansion of a campus. But you're also seeing the explosion of satellite campuses within already designed urban areas. The commission has adopted a rule that a satellite location isn't considered part of the campus unless it's over 25 percent of the students. All right. An example found that impacted the commission recently on a licensing issue: has anyone been out to the really nice, brand-new Hy-Vee at 52nd and O? All right. When all these Hy-Vees were opened up a couple of years ago, they have a Class C license for on sale consumption and off premise, with the exception that... the criteria they can only use it for wine tastings. We created that sort of exception once at the request of the city clerks of Lincoln and the city clerks of Omaha who were getting so many wine tasting SDL, Special Designated License, applications in; they thought it would be easier to do...allow them to do it but with just the exception just for the wine tastings. All right? We couldn't do that at the brand-new Hy-Vee at 52nd and O, because Doane College has a satellite campus 275 feet away in a strip mall, which serves over 30 percent of their students go there. So that was impact where a satellite campus is sort of bringing that whole 300-foot zone in. We're also concerned that we're going to see a lot more of these issues coming up with the expansion of the Aksarben Village area up in Omaha where, right now, I can tell you right now we've got a race between people who are trying to get licensed in restaurants within 300 foot, before the new dorms are built. Because they're worried that if they're not preexisting there before those dorms have been built, then they'll be...won't be able to have this. And I think one of the places, I think this is like a pizza place, which wants a full wine and spirits. So at least I wanted to put this in the back of your heads, at least, right now, is that although we support the existing bill, and we think it's a good bill for the training, when you start doing so many exceptions to an underlying statute, is it any time to look at, do we still need that statute now? And is it still relevant whereas it was when it was originally drafted in 1935? I'd be happy to answer any questions about that. [LB232]

SENATOR KARPISEK: Thank you, Mr. Rupe. Any questions for Mr. Rupe? Senator Cook. [LB232]

SENATOR COOK: Mr. Rupe, can you clarify that last couple of sentences you said that...you said that the legislation was drafted in 1935. Was the part about universities

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

General Affairs Committee
February 02, 2009

and postsecondary educational institutions in there then? [LB232]

HOBERT RUPE: I believe it was. [LB232]

SENATOR COOK: Okay. [LB232]

HOBERT RUPE: It's really hard to go back, because, I mean, even doing legislative research is where it gets a little spotty. But 53-177 appears to have been part of the original act which was drafted by the Unicameral after the repeal of prohibition. [LB232]

SENATOR COOK: All right. [LB232]

HOBERT RUPE: And if you look at, also in 53-177 (1), which we're not looking to having changes to that right now, you can sort of tell by the language used that it's getting a little dated. That's the 150 foot from a school or church, or home for the aged or indigent, or home for war widows; that language is still there, and so that's one reason we believe that 53-177 is going clear back to the original act in 1935. And what's interesting was, you can really tell that subsection 2 appears to be that, is although in current consumption act we've sort of...although we still tax them differently, of course...whether they're consuming beer or consuming wine or spirits, that definition is not as sharp; you know, you're consuming alcohol. Back in 1935, the mind-set was spirits are very different than beer. And that's one reason why you can have a beer place within 300 foot of campus, but not a spirits place. And so that was definitely a...that's one reason why I'm 99.9 percent sure that was part of the reason back in 1935. [LB232]

SENATOR COOK: Thanks a lot. [LB232]

HOBERT RUPE: Thank you. [LB232]

SENATOR KARPISEK: Thank you, Senator Cook. Any other questions for Mr. Rupe? Seeing none, thank you. [LB232]

HOBERT RUPE: Thank you. [LB232]

SENATOR KARPISEK: I have to apologize; I forgot to read in a written testimony in opposition to the bill by Robert B. Schmill, president and founder of Matt's Dream Foundation. Do we have any other neutral testimony? Senator Nordquist will waive closing. Thank you, that will end the hearing on LB232. We'll now move to LB262, introduced by Senator Rogert. Welcome, Senator Rogert. [LB232]

SENATOR ROGERT: (Exhibits A and B) Thank you, Senator Karpisek. Mr. Chairman, members of the General Affairs Committee, my name is Kent Rogert. I represent the

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

General Affairs Committee
February 02, 2009

16th Legislative District, and today I'm here to introduce LB262, a bill that extends the prohibited hour of being able to sell or dispense alcoholic liquor and conduct lottery from 1:00 a.m. to 2:00 a.m. for political subdivisions. I'm passing out a couple of reading material pieces. On the multiple-page one, I'll direct you to the second and third pages where I have circled a couple points; that comes from the magazine of Forbes. Forbes, every year, puts out their 40 best cities for young professionals to live. And it changes slightly, a little bit, but you'll notice Omaha is not on that. And on the very back page, I've included those 40 cities. And then I've also put a little bullet point sheet together that talks about a few things about Omaha, and Nebraska as a whole. It's important to note, currently, a local governing body of any city or village may adopt an ordinance, or county board may adopt a resolution, to close an establishment or all establishments in that area earlier than prescribed hours cited in statute, as long as it's within the areas inside the corporate limits for a local government body, and within the areas of a county, but outside the corporate limits of a city. For example, my hometown is Tekamah, and until probably 10 years ago the closing time was always 12:00. And the law doesn't prohibit any town from making it earlier than what we've already set it. So there's also a...in case you don't know, there's also a 15-minute extension that allows for open containers of alcoholic liquor at a retail establishment licensed to sell or dispense such items. And it's appropriate with the statute we've changed that from 15 minutes to 1:15 and 2:15. Oftentimes, you'll hear last call about a quarter to one, and at 1:15 they come and pick them up. I think it would be beneficial for us to consider extending the hour of operation or ability to sell and dispense alcoholic liquor, in order to put us on the same competition level with other neighboring states such as Kansas, Missouri, Wyoming, Colorado, or Iowa. And in the committee statement, the bill summary, I believe, Mr. Eickmeier has listed those times for us--on all our neighboring states. In addition to that, most of the states have some variation of a prohibited hour that is later than 1:00; whether required by special license, which could be possible, or a decision made by a local government, or set at 2:00, 2:30, or 3:00 as prescribed in the statutes. It's my belief that by extending the hour of selling and dispensing alcohol in retail establishments, we'll keep more of our tax dollars in our state. I want to prevent consumers from crossing our state line and entering into neighboring states that have later closing times, and encourage them to stay in Nebraska and spend their money here. This alternative only serves to booster our neighboring states' economies with hard-earned tax dollars that will be dropped in their sales tax revenue or to support their local businesses, encouraging them to profit, but with the distinct disadvantage and loss to Nebraska. I also say that I think it's a decision factor; and many times when concerning conventions, for the large organizations and businesses and companies to come to our state, a lot of those folks may be in meetings until late hours, 10:00 or 11:00 at night, quite a bit of time; and a lot of those come to Omaha and Lincoln, or maybe even elsewhere, outstate, and to look at...when they look at places to go, that's often...not, obviously, a major decision point, but it's another decision factor in what they're...when they're trying to propose where to go. I think I noted on the bullet points that Nebraska's one of six states that is at 1:00 or earlier; the other 48 and the District of

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

General Affairs Committee
February 02, 2009

Columbia are later than that--either be 1:30, 2:00, or 3:00, or no closing time at all. So with that I'll answer any questions that the committee may have. [LB262]

SENATOR KARPISEK: Thank you, Senator Rogert. Do we have any questions for Senator Rogert? Seeing none, thank you. [LB262]

SENATOR ROBERT: You're welcome. [LB262]

SENATOR KARPISEK: Do we have proponents for LB262? [LB262]

JIM MOYLAN: (Exhibits D and E) Mr. Chairman and members of the committee, I'm Jim Moylan, M-o-y-l-a-n, attorney from Omaha that represents the Nebraska Licensed Beverage Association, which is the state association of liquor retailers. I've got a couple of handouts here that maybe our page can pick up. We'll start with that, then this will be next, all right? This is a bill that's been in here different times over the years, and our organization has always supported it. All the states surrounding us except, I think, the northeast corner of Missouri, are 2:00 opening. Now I've got a map I'm handing out here; it's kind of a worn-out map because it's dated from the population of 1990. But the population has not changed that much through 2000, and I promise if we have to come back in two years, I'll have one updated to the current population. But anyhow, this map shows that over 53 percent, back then, and I'm sure it's more than that, of the population live in the border counties which are within a half hour drive from another state that has 2:00 closing. Which makes it logical that we probably ought to have the 2:00 closing and conform with the rest of them. There is quite a bit of border bleeding on the eastern side. I'm familiar with a couple of retailers that were on the eastern side that used to have customers that would come in, and then they would leave between 11 or 11:30...go right across the bridge to Iowa so they could stay until 2:00. Well, that's kind of a safety factor also, so I think it would be logical that we would change to 2:00 a.m. There's also an editorial that will show you that this bill has been around for a few years. This is an editorial from March 3, 1999, that I dug out of my archived files, by the Omaha World Herald. It was an editorial: let bar hours be local choice. And they gave some pretty sound reasoning for it--even agreed with my reasoning, which surprised me at the time, but it happened. But I think there's always been a misconception when we put this bill in, and it's been that 2:00...you have to stay open until 2:00. It's been local control since inception of the liquor law in 1935. And any local governing body can reduce the hours; can't go beyond, but can reduce the hours that they remain open. If you go to 2:00, some of them might go to 2:00; a lot of governing bodies might not. But that's the local control issue. The local governing body knows more about the populace in their particular community, you know, and can decide whether they want to go to 2:00 or not, or close up at 12:00, or 11:00, or something like that. So on behalf of the Association of State Liquor Retailers, we ask you to support the bill and advance it to the floor. If there's any questions, I'd be happy to try to answer them. [LB262]

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

General Affairs Committee
February 02, 2009

SENATOR KARPISEK: Thank you, Mr. Moylan. Any questions for Mr. Moylan? Seeing none, thank you. Next proponent. Welcome. [LB262]

LARRY GREGURICH: Hello Senator, committee members. My name is Larry Gregurich; last name spelled G-r-e-g-u-r-i-c-h, and I'm the owner of Big Dog's Beverage in Elkhorn. And I'd like to say that I'm also in favor of the 2:00 a.m. closing to put Nebraska retailers on an equal footing with the surrounding states. I have been in the liquor industry for about 35 years, in one way, shape, or form. And this industry is a bit depressed, particularly in the bar and the restaurant industry, because of the economy. But on a separate issue, I'd like a moment of the committee's time to tell of my situation of an inequitable treatment from my Budweiser distributor. After 20 years of working for an Anheuser-Busch wholesaler, I bought a liquor store in Elkhorn. Over the last 10 years, our store has grown to become the largest independently-owned store in the Metro area. For the last six years, my Budweiser distributor has been Eagle Distributing in Fremont, with twice a week deliveries. My service has been less than adequate with a large turnover of sales people and drivers. After five years of promises of better service, I started calling the district manager for Anheuser-Busch in help solving various problems. After Bruce Nelson, owner of Eagle Distributing, became aware of my contact with the brewery, he became enraged and told me in a telephone conversation that he was going to cut my service in half; from once a week deliveries down to once a week deliveries. I am Eagle Distributing's ninth largest account, and last year showed an astonishing 20 percent increase in beer sales. Since he has put me on once a week deliveries, my competitor, that is in the same building, continues to receive twice a week deliveries. Although we outsell my competitor three to one, they continue to receive preferential treatment. Because I am being punished by this distributor, with no law protecting the retailer from unfair treatment from a wholesaler, I humbly ask this committee to look into allowing retailers to purchase product from whichever wholesaler we want. After all, this is a Nebraska state liquor license that we possess. With Omaha now being...in which my store is located, it only seems logical that I could participate in the promotions and post-offs. My store is 12 blocks from Omaha's territory, and I am forced to purchase goods from a wholesaler that is trying to increase my expenses and lower my profitability. Beer wholesalers have a monopoly, because retailers in that territory are required to purchase beer from them only, and at whatever price they choose. There are many laws to protect the wholesaler, but none to protect the retailer. I urge you to do away with wholesaler territories, and let the retailer purchase from any wholesaler that he chooses. If you folks have any questions...I didn't mean to get into this, but I wanted this to be heard. I'm so livid that my wholesaler has done what he's done to me that I have no alternative. I've talked to Mr. Rupe from the Nebraska Liquor Commission: there's really no law to help a retailer. I have no alternative to go in another direction to ask another wholesaler that would like to have my business--I'm sure Omaha would be quite pleased to have my business, since I'm 12 blocks from their territorial line. But I'm being penalized for going to the brewery and complaining about my distributor. He's got me in the penalty box, and I have no recourse but to appeal to

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

General Affairs Committee
February 02, 2009

you folks to make new laws to help me out. Is there any questions? [LB262]

SENATOR KARPISEK: Thank you, Mr. Gregurich. Any questions? Senator Dierks. [LB262]

SENATOR DIERKS: There's got to be some questions, I just... [LB262]

SENATOR KARPISEK: (Laugh) I know. [LB262]

SENATOR DIERKS: ...not sure I know all the answers. Tell me more about how you got in this predicament. [LB262]

LARRY GREGURICH: Senator, I complained to the brewery, the district manager from Budweiser, that my services were less than adequate. I even wrote a letter to the chairman of the board of Anheuser-Busch InBev, and they even flew in the head of a six-state district to talk to this Mr. Nelson that I'm involved with here. The problem is, he signed a contract with Anheuser-Busch that said he only has to service me, or any stop, once a week. Well, I'm livid about this because I'm one of the biggest accounts he has. I'm the ninth largest in his district, from Fremont, Columbus, Blair, Westpoint, Elkhorn; and I can't get the service that my neighbor is getting that's 75 feet down the...next door to me. It's the same license; they're an off sale license also. So he's getting... [LB262]

SENATOR DIERKS: So just a different brewery? [LB262]

LARRY GREGURICH: Same distributor. The same distributor's delivering...giving him twice a week service; I'm getting once a week service. There's no equity among...I mean, my competition's getting something that I'm not. I could even put up with them not getting the service and cutting it back if everyone were on the same ground. But they're putting me at a disadvantage, letting them buy into specials before I can. They come and deliver them on a Wednesday with their specials start that day; I can't buy that special until Friday. So they have an unfair advantage. They also have an unfair advantage that they stock their shelves that I don't get done. They get twice a week delivery; they come in and check for out-of-code beverages twice a week. They come in and service their store twice a week. Mine's once a week, but I'm three times as big as that store. So I'm a bit livid that I have no alternative, but what I'm looking to do is to have you folks allow me to buy beverage from whichever wholesaler I wish. If it may be the Omaha wholesaler which is 12 blocks away, so be it. It may be the Lincoln distributor that comes within five miles of me in Elkhorn, so be it. But I think it should... [LB262]

SENATOR DIERKS: So the brewery establishes a territory and you have to... [LB262]

LARRY GREGURICH: I have to abide by it. If he charges me more, if my...and this has

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

General Affairs Committee
February 02, 2009

happened a lot: I'm paying a higher price than they're charging in Omaha. These people that I'm in competition with are actually in Omaha. So I've had it come to my attention where people say, can you sell me 20 cases of Budweiser for \$18.00, and I don't even buy it for \$18.00; I pay more than that for it, I can't do it. And they look at me like I'm crazy, you know. I'm still in Omaha, but I have to buy my beverage from Fremont. It's an unfair districting. They should allow the retailer to buy from whomever might offer them the best service or want to give them the best service. [LB262]

SENATOR KARPISEK: Okay, thank you. [LB262]

LARRY GREGURICH: Thank you. [LB262]

SENATOR KARPISEK: If you'd like to stick around afterwards, I'd be more than happy to talk to you, but let's try to... [LB262]

LARRY GREGURICH: Oh, I'm sure, and I... [LB262]

SENATOR KARPISEK: ...get back to the bill. [LB262]

LARRY GREGURICH: ...and I certainly thank you for giving me the opportunity to talk this over with you. I'm a bit livid about it, and thank you folks so much. [LB262]

SENATOR KARPISEK: Thank you. [LB262]

LARRY GREGURICH: Uh-huh. [LB262]

SENATOR KARPISEK: Do we have any other proponents? Welcome. [LB262]

PATRICK VONDRA: Well, hello. Good afternoon, Senator, my name is Patrick Vondra, V-o-n-d-r-a. My family and I have been involved in the bar and restaurant business ever since I was born. I had uncles and aunts that ran Dreisbach's in Grand Island; my family, my mother, her partner, myself also run Clancy's and a few other bars in the Omaha area. I'm here to support this bill kind of on two different fronts. One, of course, having extra hours to sell alcohol could definitely mean more profits for us, so. That aside, I think number two is being a young professional, I think I'm in a pretty good place. I think I'm very valuable to the work force in many different ways. I think there are a lot of other people my age with similar opportunities to go wherever they'd like to in the country to work. I really think Omaha is really selling itself short to some of these young professionals by closing up so early. I think a lot of tourism is lost because there's two impressions that you can make on a person: the first impression and the last impression. They can come to Omaha, love everything, and as some other people have said, when they get out of a meeting late and they want to go to the bar, have a couple of drinks, unwind with some colleagues and...I think, as many of you may know, quite a

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

General Affairs Committee
February 02, 2009

few deals are done around a cocktail table. But all of a sudden when they're told at 12:45 that it's time to close up, it is actually a shock to many of them. I think that's one of the impressions that we're going to leave on visitors, as they come to the Nebraska area, is that it's closing times are early, it's kind of a no-fun zone, and the next year they may reconsider where to have their conventions at. Also, from a business standpoint, I watch night after night as people, between the hours of 12:15 and 1:00 a.m., just try to binge drink, and splurge, and really kind of try to tie one on before 1:00 gets here. I, myself, going to college in Iowa, did go through the same thing one time--until somebody told me that at 12:30 we did have an extra hour and a half to drink. So instead of binging, I just continued drinking my beer until it was all done. The later drinking time, closing, actually made me slow down on my drinking in that situation, and in about every situation. That's really all I have to say. I really think that for our own tourism, our own conventions, and our own, even local, revenues, this bill makes perfect sense. Really, I cannot see a whole lot of harm, either, in extending the hours from 1:00 a.m. to 2:00 a.m. Any questions from anyone? [LB262]

SENATOR KARPISEK: Thank you, Mr. Vondra. Any questions? I guess I'll ask one. We'll probably hear some opposition to say, that gives people to drink another hour and to have too much in that extra hour, then. Maybe you can go back to what you're saying about the slowing down. [LB262]

PATRICK VONDRA: It was one of my first experiences at a bar. I went to Morningside College in Sioux City, Iowa, and I was sitting there with some friends and I'm like, you know, oh, it's 12:30--let's get a couple of shots, let's get another round. And everyone kind of looked at me funny, and I'm like, the bar's about to close. And they're like, it doesn't close until two. And I'm like oh, all right, then we'll just get another beer and kind of continue the night. A lot of times when you're out at the bar late...12:30, when you're in the mood to be out with friends, comes very, very quickly. Before you know it, it's there, and you're really not ready for the night to be over. I think by 1:30, as closing time comes around, you kind of realize it is time to go home. If you think that people, after 1:00, go home after the bars--it's sadly mistaken. Everyone's going to after-hours party; I think there's even less control, less supervision by people. At least I know if somebody's at my place we have a bartender looking out for them; somebody's making sure that they get a ride; there's security there in case anything goes wrong. I've heard multiple stories of after-hours parties. You see it on the news: between stabbings, shootings, fights, all sorts of other things...I just don't think they occur as often in the bars as they do at these smaller parties. That extra hour to drink...I know what you're saying that the opposition is going to say: it's just an extra hour to drink. If tomorrow we told everyone in Nebraska that you could only drink from 3:00-4:00 in the afternoon, how many people would drink? I think about everyone would try to get their whole fix in in that one hour. If you said you had the entire day to drink, people would kind of space themselves out; have a drink here, have a drink there. But I think by restricting it you're really forcing them, in their mind, to drink more and more quickly and get it all in.

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Transcriber's Office

General Affairs Committee
February 02, 2009

[LB262]

SENATOR KARPISEK: Okay, thank you. [LB262]

PATRICK VONDRA: You're welcome. [LB262]

SENATOR KARPISEK: Any other questions? If not, thank you. [LB262]

PATRICK VONDRA: Thank you. [LB262]

SENATOR KARPISEK: (Exhibit C) Do we have any further proponent testimony? If not, do we have any opponent testimony? I do have a letter from Project Extra Mile, Diane Riibe, Executive Director in opposition to the bill. No opposition? Do we have any neutral testimony? [LB262]

SENATOR ROBERT: Can we get him just a seat up front? (Laughter) [LB262]

HOBERT RUPE: Well, you know, I probably should. Actually, I brought handouts this time so you know I'm all right. [LB262]

SENATOR KARPISEK: Well, welcome back, Mr. Rupe. [LB262]

HOBERT RUPE: (Exhibit F) Once again, my name is Hobie Rupe. I'm the executive director of the Nebraska Liquor Control Commission, and I look forward to answering any questions. This is one where I actually am neutral. I'm sort of making myself available to the committee in case there's any questions regarding the applicability of the closing time law as currently enforced. What you're seeing is a little dated, not too bad, it's from 2005. It's a breakdown from Compliance Solutions of the closing times; not only of the United States, but also contains the Canadian provinces and some of the Caribbean Islands. Basically, the northern hemisphere of the United States is showing there. And the key thing you will see there is there are a lot of different times. There's local control issues added as well. The key thing you have to remember is this would be with the 21st amendment--the states can write their alcohol laws how they want it to be written. But I guess I'd answer any questions. I just wanted to have, you know, in case people wanted a full snapshot, at least, as to what other states, other...you know, in this case also Canadian provinces, down into the Bahamas, and some of the other locations...their alcohol policy as it pertains to closing time. [LB262]

SENATOR KARPISEK: Thank you, Mr. Rupe. Any questions for Mr. Rupe? I guess there's quite a bit to look through here, but I guess, Mr. Rupe, I'll ask...we've seen from Senator Robert that most of the states around us, if not all, are later...to 1:30 or 2:00 a.m. I guess since you're testifying neutral I don't want to lead your testimony, but do you see that this would cause a lot more problems? [LB262]

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Transcriber's Office

General Affairs Committee
February 02, 2009

HOBERT RUPE: I really don't. The commission...I don't think we do. I think as you heard from Mister, I believe his name was Vondra, that is...sort of...there's a lot of anecdotal evidence. If you're sort of phasing the closing time in a little bit, you're not going to have people trying to drink as much as they can the last hour when they're still open. You know, there is...unfortunately, there is what's sometimes called border bleeding, where people will go over to...in this case, he said Council Bluffs because it's so, you know, Council Bluffs is right next to our largest urban area so you do see a lot of people who will say this, specifically from the downtown Omaha bars, who will say let's go over to Council Bluffs because it's a little while later. Some are also probably going over to play the casinos, too. We are...if you look at that, generally 2:00 is, I wouldn't say the norm, because there's no such thing as a norm, but it's about as close as you'll get to one. I mean, some of the ones have ones which are just incredibly crazy. If you'll look at Alaska's: from 8:00 in the morning until 5:00 in the morning. I'm not sure what the difference between 5:00 and 6:00 is, but apparently Alaska went...decided to go that way. But I don't see an issue on that. I will say that you might have the officers staying up a little while longer--an hour later than normally they are, but I'm pretty sure they're working overtime anyway. [LB262]

SENATOR KARPISEK: Senator Coash. [LB262]

SENATOR COASH: Thank you, Chairman. Mr. Rupe, what...we talk a lot about the closing times. What's the current statute you've set for opening times? I mean... [LB262]

HOBERT RUPE: 6:00 in the morning. [LB262]

SENATOR COASH: 6:00 in the morning, so... [LB262]

HOBERT RUPE: Except on Sundays, in which case it's noon; although local governing bodies can alter that. [LB262]

SENATOR COASH: Okay. So, this...so right now it's 1:00 a.m. to 6:00 a.m. That's a curious one. Never got up in the morning to go to the bars. [LB262]

HOBERT RUPE: Believe it or not, there are...the 6:00 a.m., there's a reason they went to 6:00 a.m.: they were trying to get third shift people who are getting off at 6:00 in the morning. The theory behind that was if everybody else can have a happy hour at 5:00, maybe they should get one at 6:00. But it's generally not utilized that often. I can't really see a whole bunch, I mean...but currently it is 6:00 a.m. to 1:00 a.m., with the exception of the Sunday hours. [LB262]

SENATOR KARPISEK: Thank you, Senator Coash. Any other questions for Mr. Rupe? Seeing none. Do we have any other neutral testimony? If not, Senator Rogert to close.

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Transcriber's Office

General Affairs Committee
February 02, 2009

[LB262]

SENATOR ROBERT: You know what, I don't have a lot. I just listened to the conversation. I know there were a couple of areas that I didn't touch on in my opening. Border bleed is a big thing. I'm from eastern Nebraska and there's border bleed for lots of different reasons. There's two points that I'll hit when I talk about border bleed and we'll say, versus in Omaha. There's an economic point and then there's a safety point. I'll start with the economic point, and when is it that we start...when we start losing tax dollars to Iowa at that point? Is it at 1:00? I think in a lot of the times it's more like 10:00. I think folks don't get out until 10:00 or 11:00; they don't even mess around on the Nebraska side, they just go right over to the other side so they don't have to be driving around. But then there is a safety point. And there is a large faction of folks that, at last call, they grab one more and drive over to Iowa. Then they catch a cab ride home from there, but they may not, either. It's the back and forth thing that I think we could avoid if we just made it the same as the other guys, so. That's all I have. [LB262]

SENATOR KARPISSEK: Thank you, Senator Robert. Any questions for Senator Robert? Seeing none. That will end the hearing on LB262 and end the hearings for today. Thank you. [LB262]

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General Affairs Committee
February 02, 2009

Disposition of Bills:

LB137 - Placed on General File.
LB232 - Placed on General File.
LB262 - Held in committee.

Chairperson

Committee Clerk