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General Affairs Committee October 15, 2019
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LOWE: Good morning. Welcome to the General Affairs Committee. My name is not Senator Tom Briese. My name is John Lowe. I'm the senator from District 37. I am the Vice Chair of this committee, and I will be running the hearing in place of Senator Briese. We are here today for the purpose of conducting two interim studies. We'll be proceeding in the order of the agenda that is posted outside the room. If you wish to testify on any of the matters before us, we ask that you fill out one of the green sheets of paper. The green sheets are located on the other side of the room in the back. And if you're here and do not wish to testify but do wish to state your support or opposition for any of the matters before us, we ask that you fill in one of these sign-in sheets. If you do testify, we ask you to begin-- begin your testimony-- testimony by stating and spelling your name for the record. which is very important for our transcribers' office. The order of the proceedings is that the introducers will be given an opportunity to open on their bills. Then we will listen to the invited testimony, followed by public testimony. and then the introducer will be given an opportunity to close. We ask you to listen very carefully and try not to be repetitive. We do use the light system in the General Affairs Committee. Each testifier will be afforded five minutes because it looks like we don't have a whole lot of testifiers to testify. When the yellow light comes on, you'll be-- have one minute remaining, and

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we ask you to begin your concluding remarks. When the red light comes on, your time is expired, and we will open up with the committee for questions that they may have of you. At this time, I'd like to encourage everyone to turn off or silence your cell phones or other electronic devices, anything that makes noise. The General Affairs Committee is a committee that is equipped with electronics, so you may see members referencing their iPads, iPhones or other electronic devices. I can assure you that they're just researching the matters before us. And if you have prepared a statement, exhibit, or anything you would like to distribute to the committee, we ask that you provide 12 copies to our committee clerk. If you don't have 12 copies, don't worry. We will provide the committee clerk, and they will make copies for us. With that, I'd like to introduce our members, and I'll start at my right with Senator Blood.

BLOOD: Good morning. My name is Senator Carol Blood, and I represent District 3 which is western Bellevue and southeastern Papillion, Nebraska.

HUNT: Hi, everybody. I'm Senator Megan Hunt, and I represent District 8 in midtown Omaha.

ARCH: John Arch, District 14, Sarpy County, Papillion, La Vista.

LOGUEN BLAZEK: Loguen Blazek, legal counsel, General Affairs.

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MOSEER: Mike Moser, I represent Platte County, Stanton County, and part of Colfax County.

BRANDT: Tom Brandt, District 32, Fillmore, Thayer, Jefferson, and southwest Lancaster County.

ALEX DeGARMO: Alex DeGarmo, committee clerk.

LOWE: Thank you very much. And we will start with our first LR. This is Senator Briese's LR. I'll just read it from here. Senator Briese introduced LR231 and will not-- and was unable to be here today and asked me to read a brief introduction on why he introduced LR231. LR231 was introduced by Senator Briese to examine whether electric-- electrician license requirements and building regulations should be adjusted to support economic development in our state. There is a shortage of electricians and inspectors within this state which is further strained by our-- by our historic flooding this year. This study aims to examine electrical licensing and building regulations to ensure Nebraska maintains up-to-date with industry needs and technological advances and that unnecessary regulation are removed to allow for economic development and the state-- state growth while still maintaining important safety regulations. I want to thank everyone here for their cooperation in this important decision. We will start with invited testimony with the representative from IBEW, Chris Callihan. Is he here?

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CHRIS CALLIHAN: Good Morning.

LOWE: Good Morning. Could you please state and spell your name for the record?

CHRIS CALLIHAN: Chris Callihan, C-h-r-i-s C-a-l-l-i-h-a-n.

LOWE: Go ahead.

CHRIS CALLIHAN: OK. Sorry.

LOWE: Yeah. No, that's fine.

CHRIS CALLIHAN: I'm here representing the members of IBEW Local Union Number 265 and Lincoln Building and Construction Trades Council. I'm testifying today in opposition of LR 231, the interim study to examine whether electrician license requirements and building regulations need to be changed to support economic development. So let's look at the current projected economic development for the city of Lincoln and Lancaster County for the next two to four years. There are approximately 18 growth pod-- or large projects essentially set to bid or start in the next year valued at around \$1.5 billion. This is just Lincoln and Lancaster County, and includes hundreds of million dollar projects as well as smaller projects priced just as-- at just a few million. For a small glimpse outside of Lancaster County, you can add another estimated \$100 million for the potential NioCorp niobium mine project, \$120 to \$140 million for the Keystone Pipeline if it starts,

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\$350 million for the Milligan Wind Project, \$450 million for the Thunderhead Wind Project, Monolith's second phase, NPPD's conversion of Hallam power station to burn hydrogen, \$90 million expanding and remodelling JBS Swift in Grand Island, \$25 million to expand and remodel the Tyson plant in Lexington and more. How about the three data centers currently being built in Omaha area, including the one in Council Bluffs and a recently announced fourth data center being built by Google in the Papillon area with an initial investment of \$600 million? How about all the expansion work being done at BD Medical in Columbus worth millions of dollars? Now let's talk about the other states and their economic development licensing. North Dakota, Wyoming, and Colorado have more stringent testing and licensing requirements than Nebraska. North Dakota currently has adopted the 2017 NEC code and is looking at a projected amount of \$2.8 billion in 2020, \$3.1 billion in 2021 from the Dodge report, and another \$15.1 from the Industrial Info report. Wyoming currently has adopted 2017 NEC code and is looking at a projected amount of \$2.4 billion in 2020, \$2.4 billion in 2021 for the Dodge report, and another \$25.4 billion from the Industrial Info report. Colorado currently has adopted the 2017 NE code-- NEC code and is looking at a projected amount of \$17.2 billion in 2020, \$18.8 billion in 2021 for the Dodge report, and another \$12.8 billion for the Industrial Info report. Iowa currently has adopted the 2017 NEC code and is looking at the projected amount of \$9.4 billion in 2020, \$19.2-- or \$9.2 billion

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for 2021 for the Dodge report and another \$20.1 billion for the Industrial Info report. Kansas currently has no state licensing, but does have local municipal licensing in some areas and is looking at a projected amount of \$6.6 billion in 2020, \$6.5 billion for 2021 for the Dodge report, \$13.2 billion for the Industrial Info report. Nebraska currently has adopted the 2017 NEC code and is looking at the projected amount of \$5.1 billion for 2020, \$5.3 billion for 2021 for the Dodge report and another \$14.2 billion for the Industrial Info report. Looking at these numbers, the three states that have more stringent testing and licensing requirements have similar or more total economic development over the next few years and long-term. With all that work currently going on and what is with-- with what is being projected for Nebraska, I do not see a hindrance to our economic development by our electrical licensing requirements that we have. I just don't see it. State and local municipalities have a compelling interest and responsibility to protect their citizens from the hazardous situations arising from unqualified persons or companies. As part of the process to achieve this, those entities must implement and enforce rules which include licensing requirements and building requirements to do so. According to the Electrical Safety Foundation International, there are an estimated 51,000 house fires each year caused by electrical which accounts for nearly 500 deaths, more than 1,400 injuries, and \$1.3 billion in property damage. Electrical distribution systems are the third leading cause of home structure

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fires. Sixty-five percent of those home deaths result from fires at homes with no working smoke detectors in them. In Nebraska, all new homes are required to have them, and they should be installed and wired by a licensed electricians employed by licensed and bonded electrical contractors. Thank you for your time today. I'd be open for questions.

LOWE: Thank you very much. Senator Blood.

BLOOD: Thank you, Vice Chair Lowe or whatever we call you when you're up there. I actually have a long list of questions, and I apologize in advance. Since Senator Briese's not here, you're the guy.

CHRIS CALLIHAN: Uh-oh.

BLOOD: So over the weekend, I was reading through the NEC because it's such good reading. And-- and after I fell asleep the third time, I put it aside. And I have a lot of really important questions. This-- it honestly concerns me when I hear unnecessary regulations that need to be removed. So I'm going to ask you a couple of questions, and answer them as honestly as you can, please.

CHRIS CALLIHAN: Um-hum.

BLOOD: What would you say is the purpose of the NEC?

CHRIS CALLIHAN: To protect citizens and their dwellings'

infrastructure.

BLOOD: OK, so--

CHRIS CALLIHAN: If you read in the-- 90-- I think it's 90.1, it actually tells you exact intention.

BLOOD: Which is what I'm looking for, the answer. So property damage, it also prevents injuries, would you say?

CHRIS CALLIHAN: Um-hum.

BLOOD: OK. And how important is it for-- for workers to have the knowledge and understanding of electrical work practices and procedures?

CHRIS CALLIHAN: It's very important. Like it says, distribute-- electrical distribution power itself without being properly installed can be very hazardous and dangerous. You can put up a building or a house, and six months later, issues start to come-- arise from something that was faultily put in. And it could become a very dangerous situation for the people that dwell in that building or reside in that building or work in that building.

BLOOD: Actually had that happen to a family member last year in Iowa.

So would you say that this is accurate? Fifty-three percent of all fatal electrical injuries occurred in the construction industry.

CHRIS CALLIHAN: That probably would be right.

BLOOD: So I was looking at the Library of Construction Occupational Safety and Health library, and it says that exposure to electricity is still a major cause of death amongst construction workers. Does that sound accurate?

CHRIS CALLIHAN: Yes.

BLOOD: What are some of the more serious concerns when there's workers in construction and they're working in electricity, would you say?

CHRIS CALLIHAN: I think probably you will hear that one of the biggest things you're looking at and-- would be just how not truly comprehending how dangerous it can be, you get this false sense of comfort. You know, it's only 120 volts, you know, a smaller electrical panel even in your house, how dangerous it truly-- how dangerous it truly is, the way that it can explode, the damage and catastrophic loss for family-- life. If, you know-- with the regulations that have been coming through the NFPA 70E, changes in our-- in our industry just in the last five years and it continues to change to create more and more safety. The safety equipment or PPE that we have to wear as electricians working on that 120-volt panel all the way up to a

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480-volt panel has dramatically changed. And a lot of it has occurred because of the hazards that relate to a short or to something-- a ground fault happening that the amount of energy that is released in the first 1.2 seconds, I would probably say. And that explosion is just enormous.

BLOOD: I'm glad you're for that PPE. Would you say that-- that was one of my questions. Would you say that that has helped eliminate some of the accidents then?

CHRIS CALLIHAN: I-- it doesn't necessarily--

BLOOD: The proper use-- the proper use of PPE.

CHRIS CALLIHAN: --it can help prevent the accidents, but a lot of the personal gear that we wear for PPEs is to save your life. It's not necessarily going to hinder or prevent injury. So I mean it's still a very bad situation when something goes wrong. Yeah. If you ever get a chance, just Google some of the explosions that you can find on YouTube. Our training director in our both locals in Nebraska, we put their apprentices and our journeymen through training, showing them what that potential is, how to do the calculations and figure what the hazards with that 120-volt panel is, or bigger, because, you know, I don't think you really comprehend it until you see what it can do, and it's scary.

BLOOD: So in my research, I thought I saw that there was about a third of all construction deaths were from electrocution. Does that sound right?

CHRIS CALLIHAN: It sounds right. It could be right.

BLOOD: And so that's a substantial amount of people.

CHRIS CALLIHAN: Yeah.

BLOOD: And one of the factors that it looked like demographically is because we have a work force that's aging out, and we have a lot of younger people coming in that are not necessarily as qualified as our older work force. Would you say that's accurate?

CHRIS CALLIHAN: We have a very good portion of our membership and our tradesmen that are definitely coming to that point of retirement within I think-- the numbers I've-- it's been a long time since I've seen the DOL numbers, but I know nationwide last I-- I want to say it was like 40 percent were within 10 years, and I think 60 percent were within 15 or 20 years, something like that, I think. And that was a few years ago. So we got a lot to do. And a lot of these tradesmen are the ones that have worked in the trade for 40-plus years. And if you think back 40 to 50 years that these people been in the trade, they built the powerhouses, the nuclear plants. They built houses. The amount of scope and knowledge that these tradesmen have is unmeasurable. I mean I couldn't imagine how thick that book would be

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to train them, so the more we get them in the field for working with these guys, the better off we are with the next generation of tradesmen.

BLOOD: So in your-- and again, this is your personal opinion. Would you say that maybe there's a misconception in the news? We continually hear, in fact, there was just something on the news this week about it, that we are short workers when it comes to the trades here in Nebraska. And maybe there is a misconception that because we have so many regulations, that we don't have enough electricians in Nebraska. But is it really regulations or is it just that we just don't have enough tradesmen in Nebraska?

CHRIS CALLIHAN: We have-- I think we have enough tradesmen. It's just a matter of getting in the right message and getting out there and recruiting them and having an access to that manpower pool. But from our standpoint too, at the-- from the apprenticeship side and then in the local side, is we haven't done a good enough job to actually recruit the next generation into the trades, talking to high school students, talking to people that do the trade, or getting them to talk to the people that do the trade to recruit them into this as a career path. High school students right now are geared to go to four-year college. There's a lot of phenomenal kids in high school right now that are great with their hands, they're mechanically inclined, they're good at math, that would be phenomenal tradesmen. And we

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didn't do our due diligence to recruit them into this as a career path. But we are making strides to change that. And has that created a shortfall immediately? I don't necessarily think so. I think we need to get out there and get the word out and be better recruits. But long-term we've got a piece ahead of us that we need to make sure that we're training that generation, getting them exposed to the work that's ahead of them as it continues to change.

BLOOD: So hearing that answer then if I heard you correctly, then your answer is yes because we-- the concern that was expressed in this legislative-- this interim study I think is a misinterpretation of what's going on. We are short people because we have tens of thousands of jobs in general in Nebraska that we can't fill because we don't have the skilled workers to fill those jobs. We have some great people in IBEW and other organizations that are aging out, and we need to to bring in the young people. But if we start eliminating regulations, these are young people that are likely going to lose their lives because they don't have a safe work environment. Something like, what, 30,000 nonfatal, electrical accidents happen per year on construction sites? Does that sound right?

CHRIS CALLIHAN: Might be.

BLOOD: Sorry.

CHRIS CALLIHAN: I don't-- yeah, I don't have the numbers right, so I don't know.

BLOOD: So that's-- you-- I'm sorry to ask you so many questions, but you were first up and it's just easier to get it all done.

CHRIS CALLIHAN: No, but-- but I would say that, you know, we've got the journeymen right now. We've got the skilled craftsmen right now. Now it's just us to train the next generation. And there is a very fine line on how many, as a journeyman if I'm running a crew, how many apprentices I can handle and truly train to be that next generation. You know, you've got to kind of watch that.

BLOOD: Would you say that a life is more important than economic development?

CHRIS CALLIHAN: I think to truly make it a strong economic development, it has to be. We can't sacrifice the very citizens and the very people we're trying to do economic development to benefit if they are not to have-- not able to have life or quality of life down the road because of that economic development. Economic development should be a proper full growth. It isn't just a \$12 million building. It's the people that will work in that building. It is the families that provide-- job will provide for, the quality of life that it will provide for, which in turn is the economic turn in taxes and revenue. It's a full circle, and you can't miss one part of that equation.

Economic development is very important, but so is our citizens and our public safety.

LOWE: Thank you very much. Senator Blood-- or Senator Brandt.

BRANDT: Thank you, Chairman Lowe. Thank you, Chris, for testifying today. Are you a licensed electrician?

CHRIS CALLIHAN: I am a licensed journeyman wireman, yes.

BRANDT: OK. And the information I was given says that in Nebraska, a licensed electrician can supervise three apprentices.

CHRIS CALLIHAN: Yes, up to three apprentices.

BRANDT: Is that Nebraska law or that's national or the code sets that or where did that come from?

CHRIS CALLIHAN: That is in Nebraska law. Beyond that, I really-- it's kind of outside my realm. There'll be people that will be testifying behind me that probably could answer that better than me.

BRANDT: OK. In your experience, have you supervised three apprentices at one time?

CHRIS CALLIHAN: Um-hum.

BRANDT: What-- what do you feel is your ability?

CHRIS CALLIHAN: I think to-- three is probably about is where you'd want to go because, you know, again, you're-- you're doing-- your multitasking. You're supervising them both at a capacity of learning and both at a-- even more important, just for-- just as important, the capacity of training and safety. I mean it's-- you can't sacrifice one over the other. They're both going hand to hand.

BRANDT: I guess my final question is I would view an apprentice as somebody that's on a path to become a licensed electrician.

CHRIS CALLIHAN: Um-hum.

BRANDT: But can an apprentice also be that high school kid that's working in the summer for you? Or today we're short. The guy didn't show up for work, so I need somebody to pull a wire for me. So you can pull the concrete guy over here, and today he's a electrical apprentice?

CHRIS CALLIHAN: They got to be licensed with the state of Nebraska as an apprentice.

BRANDT: Apprentice has to be licensed. So you can't just move people around.

CHRIS CALLIHAN: Yeah.

BRANDT: OK.

CHRIS CALLIHAN: And I would think that if you-- if you really were thinking long-term, you are going to try to focus on those initial three. You know, my goal is to get those three apprentices to become a journeyman wireman because those potentially are the next electrical contractor. You know, they get that entrepreneurship bug in them. I want to start my own company. You know, I want to start hiring guys. I want to start wiring houses, building buildings, whatever it might be. So getting them trained and moved forward, if I keep a round robin going around, I'm train-- I've got 15, 30 guys that I employ over years and just never really get them people to that goal of a journeyman, then what am I really doing? Am I training the next generation or just feeding a bottom line? And I think we have to be careful of that as well.

BRANDT: All right. Thank you.

CHRIS CALLIHAN: Yeah.

LOWE: Thank you, Senator Brandt. Senator Moser.

MOSER: Do you feel that the inspection rules are correct, the requirements for the state and the cities to inspect electrical installations?

CHRIS CALLIHAN: From my point-- I think they are from a-- wordingwise, I think they're fine. In my personal opinion, I think the staff is understaffed for the electrical division, both at a state and a local

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level. I think they need more people. I think one of the things you-- not only is the inspector's job, which I know there are some inspectors here that will probably testify is, they're there to make sure the quality and craftsmanship and safety is all covered in the inspection-- in the installations and workmanship that's done by the electrician.

MOSER: They would--

CHRIS CALLIHAN: But they're also there to make sure that the ratios are followed and everybody's licensed and properly set up.

MOSER: They would typically make sure that the conductors are the right size and that the boxes aren't crammed with more wire than they're supposed to be and all that stuff.

CHRIS CALLIHAN: Um-hum. Yeah. And there's multiple steps when you go through your inspection, you know, rough-in--

MOSER: Rough-in and final one.

CHRIS CALLIHAN: Yeah. Exactly.

MOSER: They go around and test each outlet to make sure that the voltage and the polarity is correct.

CHRIS CALLIHAN: They-- I don't think they test every one of them. They do randoms. But like the inspectors behind me will kind of-- they can

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probably answer to, you know, how they do this. But it's more of a random so that I'm aware of anyways so.

MOSER: Now, you say Kansas doesn't have a state electrical code?

CHRIS CALLIHAN: Currently, to my knowledge, they do not, but there's local municipalities. I think the city of Wichita and Topeka I think have licensing requirements at a local like a city. The state of Nebraska has a license. The city of Lincoln has a contractor's license. The city of Omaha I think has both journeyman and contractor's. So you know I think with-- if they meet with-- the standard of the state, they can have their own licensing if they have their own testing and stuff. But like I said, there's a couple inspectors behind me that probably can answer a lot more to that.

MOSER: OK. Thank you.

CHRIS CALLIHAN: Um-hum.

LOWE: Thank you, Senator Moser. You said Kansas doesn't have a state licensing.

CHRIS CALLIHAN: To my knowledge, they don't.

LOWE: What do they do in the rural areas then?

CHRIS CALLIHAN: Not sure. Kind of scary.

LOWE: Are they having problems down there with electrical fires and things like that? Deaths?

CHRIS CALLIHAN: To my knowledge, I don't know.

LOWE: OK, so you'd stated a number on the amount of deaths that were caused by electrical damage. How many was that?

CHRIS CALLIHAN: From the house fires, they account for nearly 500 deaths and 1,400 injuries.

LOWE: And that's in the United States?

CHRIS CALLIHAN: United States. And I got that from the Web site, sorry, I'm looking at my notes here, Electrical Safety Foundation International.

LOWE: OK. And how many of those, the 500 deaths, how many of the houses were wired by-- by a qualified electrician?

CHRIS CALLIHAN: They do not have that breakdown. They were just talking basically about the safety and the need to be aware of how you need to treat electrical distribution.

LOWE: OK. So it-- it-- it could have been a qualified journeyman or electrician that wired the house.

CHRIS CALLIHAN: Could've been.

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LOWE: And something went wrong. OK. Were there electricians brought in from out of state during our floods to fill in the voids, to-- to help assist-- get Nebraska back on-line again?

CHRIS CALLIHAN: I'm not aware, but I-- they don't-- I haven't seen any coming in and checking with me. But the state inspectors might know the answer to that question, and I'd be surprised if some didn't come in to help. That's kind of the nature of the beast to come up and help, you know, be that-- that person or that company to come up and help.

LOWE: OK.

CHRIS CALLIHAN: I'm assuming if they did, they came in and they checked in with the state and made sure they had reciprocated licenses because Nebraska reciprocates with them-- with 14 states. So I hope they did. I mean pretty bad situation.

LOWE: Yeah. We're glad their-- Nebraska is back up and running again, and electricians had a big part to do with that. In your experience, why does somebody leave the apprenticeship program? I mean if they're working with an electrician and-- and wanting to move up, thinking it's going to be a great position. Why does somebody leave the apprenticeship program?

CHRIS CALLIHAN: From my-- what I've seen it-- they just-- just have decided this isn't the career path that they want to do. Usually I

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think the first year or two at the most, you might-- that unrealistic or unknown expectation that they might have that as an electrician or a tradesman in the construction industry, that we are working when-- no matter what the weather's doing, really. We're in the weather when it's hot. We're in the weather when it's cold. So I think to some degree, that has a little bit to do with it. Our tools range from a pair of wire cutters all the way down to the shovel. So I think once we start exposing the apprentices to the different scopes of work that are included and required, that tends to deter some of them. But by and large, I think we have a pretty good percentage that go through the program, complete it and become journeymen and wiremen and women.

LOWE: Is electrician a good life?

CHRIS CALLIHAN: I think so. So I mean it's a good career path for me. I'm going to have a good retirement. I've got health insurance, you know, make a good quality living.

LOWE: Right. Are there certain types of projects or construction that require closer supervision than-- than other projects?

CHRIS CALLIHAN: I know that there are some distribution services that are a lot bigger, you know, especially when you get into, you know, power grids and stuff like that. But again, the amount of potential, the electrical energy that is even in a 120 panel, which is what it's in the house-- in your house, would be probably scary if you actually

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knew it. The potential that it has if there's a ground fault or a problem is realistic. And so I think we cannot minimize that 120-volt panel. It's just as dangerous. So one wrong move, one bad wire, one undersized wire, and you could have some serious problems.

LOWE: All right. Thank you very much. Any other questions? Thank you, Mr. Callihan, appreciate it.

CHRIS CALLIHAN: Thank you.

LOWE: We now have Barry Mayfield with IBEW. Would you please state and spell your name for the committee?

BARRY MAYFIELD: Yeah, Barry-- Barry Mayfield, B-a-r-r-y M-a-y-f-i-e-l-d, and I represent International Brotherhood of Electrical Workers Local 22 out of Omaha, Nebraska. Currently, with members and family, it's pretty close to 4,000 people that I represent. Directly at this time, it is close to 2,000 members that are actually out working in the field. And there is really close to 1,200 that are out-of-state, that are electricians that's come in and helped fill the void for these big projects that we have. Now, I started out with just-- what I did is simply just try to answer the five questions that were in the resolution itself, just to-- just to try to my insight to that. So number one, when you ask strategies to entice more people into the construction fields to ensure Nebraska's ability to continue growing through economic development projects, and

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so Local 22 is continuously organizing and recruiting new members of all levels and experience. We've held numerous job fairs and will continue to have them. They are aimed at attracting not only the new and unexperienced person, but also the experienced, ready-to-license, and licensed journeyman electricians. Our apprenticeship programs attracts people by providing apprentices with an earn-as-you-learn education that includes full-time employment with benefits and a paid education, meaning no student loan debt upon graduation. Question number two which stated a comparison of Nebraska's electrical licensing requirements and building codes with those similar-situated states, which is the handout that I handed out. The states that border Nebraska have state licensing except for two, Kansas and Missouri, which both states have local jurisdictional requirements requiring licensing of contractors and journeyman electricians. Which is too-- goes back to the point to where they, the bigger cities, not the rural areas, have the different requirements and different licensing to make sure they're qualified to do the work. Number three, where it said whether Nebraska's electrician licensing requirements and building regulation-- regulations account for changes in electrical construction technology and building techniques. While techniques net-- while techniques and the way we do things on the job may change, the technology as it gets smarter requires that we stay smart with it. Lowering standards and licensing requirements means not only a compromise on the quality of insulation and the finished product, but

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it also compromises the safety of the worker and the end user.

Ultimately the contractor and customer pay a price as well when the job is not done right the first time or just not the customer's-- or to the customer's specifications. Rework costs both time and money and is not a cost that is built into any bid. OK, question four, whether Nebraska's electrician-- electrician licensing requirements and building regulations could be better tailored to account for large-scale projects. Nebraska code already allows for a 1 to 3 ratio, that's 1 journeyman for every 3 apprentices. The larger the project is, the greater the need for properly trained and licensed journeyman electricians. Safety is the greatest concern and will be compromised by looser licensing requirements. And last question there, number five, strategies to update Nebraskan's electrician license requirements and building regulations to remove obstacles to economic development while maintaining a safe working environment. Local 22 has taken those steps many years ago by implementing market recovery agreements. We have the greater Nebraska jurisdiction and a-- construction wireman, construction electrician program to address those exact obstacles for those contractors, all while maintaining the existing license requirements and building regulations. So those are my prepared-- just trying to answer the questions that were there if they were still the same. That's what I have.

LOWE: Thank you. Senator Blood.

BLOOD: Thank you, Chairman Lowe. How are you today?

BARRY MAYFIELD: Good.

BLOOD: I don't have a long list of questions for you, just a couple brief ones.

BARRY MAYFIELD: Great, thank you.

BLOOD: So you're off the hook. But I'm still not clear on a couple things. So I'm going to ask you again-- that-- is this a question based on your experience, so I'm asking for your opinion for the record. If a large portion of accidents could be tracked to one thing when it comes to construction and there were regulations put in place to protect those numbers from getting greater, would it be sound to remove those regulations or to deplete some of those regulations?

BARRY MAYFIELD: No. You know, right now, you know, I can-- if this is going to your question there, but the 1 to 3 ratio, I think three is too many to watch over. But you just get the gist of, the stress of the job and the different things that come at you, and you've got to train these-- these different people or watch them to make sure that you don't have more things happen. But no, I mean there are just-- there's so many things that can happen. You make these-- you make these rules looser, I-- I-- I believe that's the-- there's going to be more problems and even leading up to more deaths. I can comfortably say that there will be more injuries and more-- and it-- and it goes

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beyond that, of course, it stinks that things don't happen until somebody does get hurt--

BLOOD: Right.

BARRY MAYFIELD: --until that fact. And you don't want to get to that point to where-- to where-- that's part of my job as well is I go to funerals for things and to look at that family and to do that. It's just something nobody needs to go through. You have to do that with your family the way it is. But then I have an extended family with what I'm doing. But going to that-- that ext-- we-- we don't want to do that, to have that happen. So that's my opinion on that.

BLOOD: So-- so knowing that one-third of construction-- approximately one-third of construction deaths are due to electrocution, can you-- can you walk me through what happens when someone dies from electrocution? What exact-- do you know?

BARRY MAYFIELD: They burn. So if you've ever smelt something that burns or anything like that, it's a smell you never forget. You have-- you-- it could go through any different type of deals. So depending on the voltage and if-- how it-- how it happens, how you get hooked on it or, you know, how you-- you get to where you-- you-- so you're electrocuted-- electrocuted and you grab onto something or a thing like that. You-- it contracts you. It makes you grab on. You can't let go.

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BLOOD: And so it sounds like-- and again, you're the expert so you've helped me. So in my research, it sounded like the types of deaths that were caused by electrocution were caused by things that were actually pretty commonplace. Wiring-- they included things like white fix-- light fixtures, circuit boxes, which you talked about-- circuit breakers, excuse me, control panels. So we're not talking I mean transformers. But you said that that's pretty accurate, that-- that they're really pretty commonplace things you guys come in contact with.

BARRY MAYFIELD: The commonplace thing of it is because-- you get to the shortcut part of it either because maybe somebody doesn't know because they're not trained and they're learning. That part of it is-- and that's-- of course, what that license does is you start skipping corners. One is that you can not put a ground wire, and that-- that electricity doesn't go to ground right. You become the ground, and it goes through you. And that's-- that's where the danger comes in.

BLOOD: Right. So what about the nonfatal electrical shocks? Do those people usually end up missing work, having days off, things that cost-- actually cost the companies money because they have workmen's comp?

BARRY MAYFIELD: They make a lot of money for the workmen's comp lawyers, yes. Because it gets to the point-- and I have a few right

now that I, you know, I-- I-- there's probably a dozen that-- that-- that I've known now since I've been in this position now for five years and that can't--

BLOOD: And would you say tens of thousands of nonfatal electric-- electricity shocks [INAUDIBLE]?

BARRY MAYFIELD: Yes. Yeah. First of all, there's a-- there's-- there's one that come to mind where this individual, it took him probably a year and a half after he was over his injuries to-- to not be afraid of it, to like I can finally go back. And then I could see when I was talking to him that-- that he was comfortable with actually going back, I'm ready to go back now. And that was a year and a half after that he was-- which fell off my radar after he wasn't sick anymore. But then when he came back, I, you know, was like, wow.

BLOOD: Why, I certainly understand that. I'm sure it wasn't much fun. Do you want to have one last question? Again, I think when I would read this interim study and I look at what's trending in Nebraska, would you say that when it comes to this area of the trades, that people are aging out, we have trouble finding younger people, and that, in that-- some ways it's probably maybe creating even bigger concern when it comes to safety?

BARRY MAYFIELD: Yes, it does. Right now, I just know this is a study that was-- excuse me, that my apprenticeship director just brought to

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me like it was last month. And we're worried about first retention and different things because the people move on and different like-- you knew the question that was, you know, there is-- right now we have close to 500 apprentices right now. And what we see five years down the road is we're just pretty much replacing the people that retire and just attrition where it's within-- it was within seven people. I don't remember which side of, it was on. But I remember that it was like, OK, these 500 people that we're training right now are replacing those. So we're increasing those numbers. So we're-- we're going to have over 100 probably in the next few years of just first-year apprentices, just people starting out, going in that direction.

BLOOD: But you have a lot of competition because the trades everywhere in Nebraska need people, right?

BARRY MAYFIELD: Yep. Yes. Yeah.

BLOOD: All right. Thank you.

BARRY MAYFIELD: Thank you.

LOWE: Thank you, Senator Blood. Senator Arch.

ARCH: Thank you. If-- what would you say is the number one cause for injury in your trade?

BARRY MAYFIELD: The number one cause for injury, I'm going to say in the installation part because that's when we're there. You know,

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things do happen later, whether it's-- and I definitely-- this isn't a union-nonunion thing. This is a industry thing is, you know, in the installation part and when you're-- when you're going about the different things. And I-- and I think that's the part where that ratio where I alluded to that whereas you get too many to where you're making sure everybody's doing the right thing, you know, all the way down to straining just from lifting some of this-- the heavy stuff and different things like that. So I'm going to say in the installing part.

ARCH: And it-- and-- and would you say is it lack of-- lack of training or not following the training that causes most of the injuries?

BARRY MAYFIELD: I think you can go across the board on that. I mean it-- it goes to-- it is with that-- I'm going to say-- I'm going to say lack of training. But if you-- you get less training if you have more people that's under you that you don't have the person to pass that knowledge on. You know, because just like any task you do, you get busy and you're multitasking, you could miss things. So that's where I think that is.

ARCH: Yeah. So not fully trained, not-- not yet fully trained, and they make-- they could make some mistakes.

BARRY MAYFIELD: Yes.

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ARCH: OK. And if-- if the state of Nebraska totally eliminated like Kansas and had no regs, would you-- would you change your training as it-- how would-- how would that-- how would that affect what you do in training of your apprentices?

BARRY MAYFIELD: If there wasn't a license?

ARCH: Yeah. If there-- if like Kansas, regs were eliminated, and that's obviously not going to happen, I mean drastic, but-- but what if-- would that-- would that change your training?

BARRY MAYFIELD: Well, I don't know if I can fully answer that. I mean I guess the way we adapt to everything, to where-- what hits us. I mean my-- my position, I'm 90 percent reactive what to comes at me. So I mean we would-- we would adapt or die off. But everything we do is about safety. And I still want to go because I have a lot of friends and a lot of people that are nonunion, that this isn't that issue that-- where they came from. And why they like coming to I guess the union side as well, though is that you care about their life, you care about the re-- regulation that controls and safe for people to do things and how we do it. So and that's all around NEC, the National Electrical Code, which the state has adopted. So that's a national thing, and so it's hard to answer that one.

ARCH: OK. Yeah. I'm-- I'm sure. OK. Thank you.

LOWE: Senator Moser.

MOSER: I just had a couple of questions. I don't know if you're the expert for these or not, but if you want to deflect them for somebody else, that's OK too. But are the adjoining states' regulations different on the number of apprentices that a journeyman can supervise?

BARRY MAYFIELD: I don't know that answer. I don't know what their ratios are. No, I don't know that answer.

MOSER: In most of the accidents, is it the lack of training or is it a momentary lapse of concentration or--

BARRY MAYFIELD: I think you do--

MOSER: --a physical thing, you drop a screwdriver in a panel or something when you're working?

BARRY MAYFIELD: That goes across the board. There's-- there's all levels that happen with that, so I don't-- I don't think it's fair to point the blame at anything. I think that's equal across the board.

MOSER: I just thought you probably have seen a number of accidents and had some experience at that but.

BARRY MAYFIELD: I have. So you-- what I know is I know there's things that-- because it gets beat in our head by the contractors and the

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owner about how they want things done because it doesn't matter if you're a \$2 an hour job-- a \$2 an hour guy or a \$40 an hour guy, you cost the same when you're injured. So that part, it costs the contractor, industry, everything as a whole when that-- when that happens.

MOSER: Are they experience requirements of the adjoining states different than ours? I mean our law says that you have to have-- well, I don't know if it's a law or a regulation, but one of my constituents was-- was showing it to me. It said that to be a journeyman, you had to have four years' experience under an electrical contractor.

BARRY MAYFIELD: You have to have the license, state license, for four years. And then usually you're verifying that so--

MOSER: An apprentice license, you mean?

BARRY MAYFIELD: The apprentice license to-- in this state to--

MOSER: Because I know in here it says that apprentice licenses in Nebraska, that they're not licensed, and I saw he had an apprentice license card. I don't know if he printed that himself or-- or if the state issued that but.

BARRY MAYFIELD: The state issued it. It's a fee. It's-- you have to pay for these people. So it's a--

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MOSEER: So that's a mistake there on page 2 where it says Nebraska apprentice not licensed.

BARRY MAYFIELD: What do you mean, not licensed?

MOSEER: Well, on page 2 of your handout under Nebraska, it says apprentices are not licensed. Is that--

BARRY MAYFIELD: They all say they're not licensed. I mean I guess I didn't-- I mean they're not like a journeyman license. They have a beginner, just construction. Just like the example you grab a cement guy--

MOSEER: Can anybody get an apprentice license with--

BARRY MAYFIELD: Yes.

MOSEER: --with no experience?

BARRY MAYFIELD: Yes. To my knowledge, yes. That's where it starts. It's the contractor journeyman to where you-- they want that validation that you-- you've done it, to be able to teach the people that don't.

MOSEER: Do you think that the testing requirements for journeyman electrician are adequate for protecting the public and protecting themselves so they don't get hurt?

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BARRY MAYFIELD: I'm not for lesser regulation-- regulations on it, but I believe that I'm a well-rounded electrician, and I took the exam. And-- and I, you know, I feel like it's adequate, my opinion.

MOSER: OK. Thank you. Appreciate that.

LOWE: Senator Brandt.

BRANDT: No, he answered my question.

LOWE: OK. We kind of went through some of this, but the national code, electrical code, does it state how many apprentices, journeyman can be underneath-- underneath a licensed electrician?

BARRY MAYFIELD: I don't think so, no.

LOWE: No. OK. So it's-- the state--

BARRY MAYFIELD: I'm not--

LOWE: --the state comes up with a number.

BARRY MAYFIELD: The states come up-- that is-- that's what I'm aware of, yeah. I'm not sure on that answer, no. But I believe that's what it is.

LOWE: When the electricians come in from out-of-state to work in Nebraska, do you know what they must do to work in Nebraska?

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BARRY MAYFIELD: Yeah, a lot of them-- a lot of the states do reciprocate with-- with Nebraska. And so then they'll either reciprocate that license they have or they'll-- they'll come in and depending on their experience and how, I guess in my world, how they get out as a-- as a journeyman, is-- it's-- they can get an apprentice license. And they could still go out if they have the credentials, if they can show what we have for our documents to the Department of Labor, what we're allowed to do, and they'll go out that way.

LOWE: So--

BARRY MAYFIELD: They come in and buy-- because everybody has to have a license in the state of Nebraska. And so they could simply, as long as they're within the ratios, if their experience has been-- because sometimes it depends-- I'm going to say half of these people already have the thing, their license already reciprocated or it's-- they're ready to go because some people just travel around the country. That's the way they live their life and work that way. And then they-- they're ready to go and the other ones will buy an apprentice license and then continue on with that process if they're not there yet because it's not like an overnight thing.

LOWE: --so a full-time electrician, fully licensed electrician can come into Nebraska, and then he has to buy a Nebraska license also--

BARRY MAYFIELD: Yes.

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LOWE: --to be qualified in Nebraska?

BARRY MAYFIELD: Yes.

LOWE: Does he owe any other fees once he comes in besides that?

BARRY MAYFIELD: Not that I'm aware of. No, because that's-- that's what I've seen with these people.

LOWE: OK. And--

BARRY MAYFIELD: Maybe those fees need to be higher because like we need some more inspectors right now so.

LOWE: Is it easier to get a license in another state than Nebraska, so it might-- you might go to Iowa or Montana to get your electrical license? I don't know what reciprocal states we have, but in a reciprocal state, was it easier to get your license in another state and then come to Nebraska to work?

BARRY MAYFIELD: No, because I know-- from what I understand, they go through a process, the-- which the-- the state inspector will be able to answer that better than I, is they go through a process to where things are like-- like-for-like or, you know, there may be some off a little bit, try to get the best they can to make sure that we're safe. And in the installation, everything's done to what-- that the-- our

people in Nebraska deserve. But I can speak to the fact that I have an Iowa license as well because-- I have jurisdiction in Iowa as well.

LOWE: Hmm.

BARRY MAYFIELD: And it was-- it was taking a test. And it was-- it was actually a little harder than Nebraska. I sweated that one a little bit more taking that, and that was a little harder to take. And-- and so their requirements compared to Iowa-- to Nebraska are a lot harder.

LOWE: OK. You stated that you've attended several funerals, too many funerals--

BARRY MAYFIELD: Yes, sir.

LOWE: --because of electricians. How many of these were well qualified electricians that just made a mistake?

BARRY MAYFIELD: Just. I don't-- yeah, I don't--

LOWE: You know, accidentally touches something or some-- somebody powered a wire that wasn't supposed to be powered.

BARRY MAYFIELD: --I don't have data on that or what-- you know, because I have a handful that are-- that are-- happened from accident that way--

LOWE: Yeah.

BARRY MAYFIELD: --and some are natural progression from who knows, but yeah. So I don't have whether they're making that mistake or they're-- I don't have like the report on that with-- I couldn't answer that--

LOWE: So-- yeah-- OK.

BARRY MAYFIELD: --truthfully.

LOWE: All right.

BARRY MAYFIELD: And I want it truthful.

LOWE: Yeah. I appreciate that. My thought is that that doesn't have anything to do with the apprentice license. That has something to do with an accident. And very sorry for every death that happens, for every accident that happens whether you just buzz your finger or anything else. And those are learning experiences, buzzing your finger. It makes you remember not to stick your finger where it doesn't belong.

BARRY MAYFIELD: Makes you respect it. Yes, sir.

LOWE: But you had stated that the three apprentices, you may not even be happy with that?

BARRY MAYFIELD: Correct.

LOWE: That-- are you saying that maybe two might be better?

BARRY MAYFIELD: I'm living with what it is there. But yeah, and-- and I'm going to say, out of the 63 contractors that I represent, there's 1 of them that runs the 3-to-1 ratio in their-- in their book of business and their shop. Everybody else is less than that because it just costs money. It costs you more money in the long run if you're not making sure things are where they should be in the training and different things.

LOWE: Yes, sir. Thank you very much.

BARRY MAYFIELD: OK.

LOWE: Appreciate it.

BARRY MAYFIELD: Thank you.

LOWE: We now have Kevin Booker who is the State Electrical executive director. Thank you. Would you please state and then spell your name?

KEVIN BOOKER: Thank you, acting chairman, members of the committee. My name is Kevin Booker, K-e-v-i-n B-o-o-k-e-r, and as stated, I'm the executive director for the State Electrical Division. I think I could clarify a number of the questions that have been asked previously. An apprentice is a registration, not a license. The license is something that you actually take a test to obtain. So we have a number of licenses in the state all the way from residential to we still have a few of the old special licenses and then our journeymen and our

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contractor. So I personally hold 16 licenses. And you asked the question earlier as far as what it takes as far as getting a license and how Nebraska compares. I had more trouble getting a license in a municipality in Kansas than I did in the state of Nebraska. So and as I stated, I do hold 16 licenses, between contractor, master journeyman, and inspector. So I-- when I was a contractor prior to this job, I traveled throughout the whole United States. We have no requirement for a Department of Labor-approved program for our apprentices to go through. So our apprentices get all their training in the field. Most of them have no formal education such as that that's required in the state of Iowa, the state of Wyoming, New Hampshire, Oklahoma, Arkansas, Washington, North Dakota. A number of other states have regulations a lot more strict than us. So if we have an apprentice from the state of Nebraska that can test here after 4 years and 8,000 hours while employed by the electrical contractor, that same apprentice would have to work 16,000 hours in order to be able to take the exam in the state of Iowa. So they add an additional four years of on-the-job experience in lieu of their department of labor-approved program. So I got a whole list of things I kind of wanted to cover quickly. One of the major things, as you indicated earlier, was our flood inspections and our flooding that we've had. The biggest comment I've gotten on the flood is the number of unlicensed, unqualified people from out of state coming in and taking advantage of Nebraska residents, people that are not qualified or

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price gouging-- price gouging. I've received complaints from the Governor's office and also from the Better Business Bureau. I'm on the phone with her on a regular basis for those taking advantage of Nebraska residents. What the board has done in order to try to help bring in those in from other states, we currently look at 16 other states coming in that we have a written agreements with to make it easier for them to come in. But to expand beyond our state licensing agreements between states, we also will accept those from Kansas who have completed 4 years, 8,000 hours, and hold a Kansas journeyman license issued by a municipality as long as the exam was a nationally recognized exam. So we're working very close to bring in the neighboring states. The same thing also applies with the state of Missouri. Missouri is in the process of coming into state licensing, but has not yet done so. As a lot of you know, before Nebraska went to a state licensing program, we had municipal licensing. The majority of those large jobs that are coming into the state, such as in the Pavilion area-- or Papillion, are under a local inspection program. So rather, we're shorthanded in this state. There's no matter what the state requirements are. Their requirements have always been the same. Same thing with Omaha, Fremont, Hastings. We still have-- the city of Fremont is slow-- doing testing themselves. Somebody who is working at the chicken processing plant in Fremont can take an exam that's given by the city of Fremont. The day they get their pass letter in the mail that they have passed that letter-- that exam, that we have approved

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because we see all exams, we issue them a state license immediately.

So you know, our board has gone out of their way to try to create a great environment for those. The shortage is the worst thing in Nebraska? We're not alone. I just got back a month ago from a multistate meeting with 20 other states. They're all screaming for electricians. The young people are not coming into the trade like we need to have happen. Construction trade, whether you're a plumber, mechanical, electrical, we need young people to come into the trade which we don't have. There are a number of things in our act that do need corrected. Unfortunately, all of you being senators realize that there's only so much time that each of you have. You know, I would love the opportunity to sit down with a senator on some of the things that we would like to clarify in our act. As we all know, there are questionable areas. And I testified before that I would like to see some changes made. When Senator Ebke introduced this bill, she was my senator. Now Senator Moser is my-- or no, I mean Senator Brandt is now my senator. So I would love to sit down and go through some of the wording changes that we need to make. The board has looked at asking for legislation approval for reinstating some of our special licensing, which means that a person doing a solar install or irrigation install or those that do a special type of installation would be able to get a license to do that scope of the work that they do every day of the week without having to have the 4 years and 8,000 hours that we currently require for a journeyman. So we are doing

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everything that we can. The board is definitely open for public comments to anybody that would like to make a comment. We hear public comments at about every meeting. We recently had a Omaha contractor, who just recently filed bankruptcy, doing a large job, number of code violations in a school. His sale is coming up next weekend. You know, he admitted to me personally that he was way out of ratio, didn't have the proper supervision of the apprentices, and a lot of things happened that he wasn't proud of. So you know, we do have those jobs. It was, you know, outside of us, you know, even though we did the inspection, it was a job in Omaha. So but the major jobs that-- most of the concerns that I've heard as far as the data centers, they are in a local jurisdiction area. So even if we had no state license at all, they would still have to meet the same requirements based off of their local city requirements. So you know, making any changes to our State Electrical Act or our requirements, to make them any less stringent would not take care of, you know, a lot of the concerns out there. We've investigated two deaths in the last year, both agricultural. One, as a lot of you are aware of, a seven-year-old girl on her grandfather's farm. The grandfather wired his diesel tank and got the hot on the ground. It was wet. The little girl came in contact and was killed. Her little brother was shocked. So that's areas beyond the scope of us. The other one was also agricultural. That was a farmer working on his center pivot. His wife found him the next day kneeling out beside the center pivot. So the majority of the accidents

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that we're seeing right now are ag accidents that we have no regulations over unless they're commercial or industrial in nature. We recently had a journeyman electrician playing contractor on a poultry facility over by Waverly that they had to have another electrician come in and make the corrections on a job that was not permitted, not inspected, and the guy wasn't properly licensed. Now it's costing the farmer a lot more money to make the corrections. I'm sure most of you can take in to-- most of our fans in these barns are 120 volts. Our estimate was 80 volts is what they were running on. So the lower the voltage on that motor, that motor got warmer and warmer and warmer until they finally tripped a main overcurrent device. The chickens got hot. They had a large loss. You know, unfortunately, it was somebody doing it illegally. We get reports of that weekly. As far as the reciprocal numbers, we get two to three reciprocal applications in per day, and we turn them around within a day or two. As soon as we get a response back from the testing state they come from, we get them turned around. Many of the recruiters for these large jobs that I talk to every day will tell you that we are one of the easiest and quickest states to get a reciprocal license issued. We feel the same thing that all of you are hearing. We know we need people. We know we need them to come into this state. We need them to work. But we also want to make sure they're qualified and that they're going to do a safe installation. The specialty licenses we had, the best-- it was way before my time. The best information I received is that those licenses

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were done away with in 1993. And now with the calls that we're hearing from those that only want to do a specific area and having the reduced hours to be able to get that reduced license, the board has been listening to those and working on trying to come up with some sort of arbiter language. Our residential wireman only requires three years. And if they have a degree by attending a community college program or a Department of Labor program, they're able to get that license in two years. So a residential wireman allows them to do these small residential jobs, you know? So I hope I answered a lot of them, but I'm sure there's some things that I missed. I was just kind of-- tried to listen in to the other testimonies so if anybody has questions for me.

LOWE: Senator Moser.

MOSER: Do the adjoining states have different numbers of apprentices per journeyman?

KEVIN BOOKER: They do. And local jurisdictions also have more stringent numbers than the state. We are the bare minimum of what the ratio should be.

MOSER: Very minimum by the NEC standards?

KEVIN BOOKER: No, by the Nebraska statute. A lot of the local areas say no, we only want 2 to 1. A lot of the employers only say, hey, our journeyman, we only want them to supervise one person. So you get

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states that are more strict than us. Wyoming has a sliding scale, that a first-year apprentice has to be 100 percent supervised regardless of how many apprentices, regard-- every apprentice will lessen that. And then they go to 25, 75, and 100 from there so for every year they hold that apprentice registration, and for each year they attend a department of labor program, which is mandatory in Wyoming. So they could have more than our 3 to 1. If they had people that had 4 years of training or 3 years of training, their supervision can be adjusted accordingly. Every state has different regulations.

MOSER: The way we have the experience worded, it says under an electrical contractor.

KEVIN BOOKER: Yeah.

MOSER: Do you like that language?

KEVIN BOOKER: Yeah because it's-- a contractor is somebody that's been a journeyman for at least a year. And it makes sure that they're registered in order to do that. A contractor has to sign off on their hours, and that's the same requirement regardless of where you're at in almost every state that licenses. We call it a contractor. A lot of other states call it a master. We're one of the few states that actually calls it a contractor, us and South Dakota so.

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MOSER: Now do we-- we have a test that we give. Is it a national test, or do we write our own?

KEVIN BOOKER: It currently is wrote [SIC] by us. We go through every year, and we do a review. And then we look at the questions. If it's a question that 100 percent of the people miss, we throw it out. If it's a question that 100 percent of the people get, we throw it out. We like to keep an average on there. Our average is all the way from 30 to 45 percent. If we're in the Omaha area, our pass rate is higher. If we're in the Norfolk area where they have the community college, our pass rate's way up here.

MOSER: What percentage do you have to have to pass?

KEVIN BOOKER: You have to have a 75 percent to pass.

MOSER: Is it multiple tests--

KEVIN BOOKER: Yeah.

MOSER: --multiple choice?

KEVIN BOOKER: Yep. They have A, B, C, D and--

MOSER: Do you have a test question pool that you can study?

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KEVIN BOOKER: No. No, we do not. It's all out of the National Electrical Code. There are a number of providers out there that they can buy study materials from.

MOSER: Do you change it every once in a while so they can't memorize it?

KEVIN BOOKER: No, actually, some of the questions we have on there are from day one.

MOSER: Yeah?

KEVIN BOOKER: You know, so we have to update it as the state adopts the National Electrical Code. We have to go through which we've already done in anticipation of hopefully getting our NEC passed this year. We've already gone through and created a question pool of anything that might have changed from this year. And then some of the questions on there are common calculations.

MOSER: Yeah. When we recognize an electrician, a journeyman electrician from another state, do they have to have at least one-year experience as a journeyman in an adja-- adjacent state to get approved?

KEVIN BOOKER: That's part of our reciprocal agreement.

MOSER: Yeah, I was just asking--

KEVIN BOOKER: Yeah.

MOSER: --because I had one of my constituents who's trying to get licensed. And I know he calls you about once a week.

KEVIN BOOKER: Yeah.

MOSER: When you're out on a construction site and there's conduit being put in and and conductors are being pulled and that sort of thing, at what point is it required that an apprentice or a journeyman does that work? Can just regular construction workers put in conduit?

KEVIN BOOKER: No. If it's covered under the National Electrical Code, which the installation of conduit is covered, they need to know what the fill is. They need to know how often it has to be strapped. I'm sure all of you have looked up some point in your life and seen all these conduits going like that. So we do have strapping requirements to make sure that they're-- on EMT, that's when they're three foot.

MOSER: Yeah.

KEVIN BOOKER: And then every ten foot.

MOSER: So but they couldn't have-- say the-- say the contractor that has a contract of wire at Chicken Barn, let's say, OK? And he has conduits to put in. He can't use regular construction workers to

install conduits, even though they may be the correct size or the correct material?

KEVIN BOOKER: They have to be under the supervision of the journeyman. So that's-- the journeyman is the one that's responsible to make sure they're getting installed correctly.

MOSER: And so--

KEVIN BOOKER: If you don't have that supervision--

MOSER: That would count-- that-- that would count as one of the apprentices or something. You wouldn't be able to have three apprentices and then two or three flunkies that, you know, just signed up last week to work on the job or whatever.

KEVIN BOOKER: No, what we say is, you know, those that-- if they are out ratio, they could do stuff. They can carry in material. They can clean up. They can-- there's a number of things that flunkies, as you call it, you know--

MOSER: It was a bad term. Strike-- strike that--

KEVIN BOOKER: --it was-- that they could do, you know.

MOSER: --because I've dug a lot of ditches. I wouldn't like being called a flunky.

KEVIN BOOKER: I have too. And you know, digging the ditch don't require a license.

MOSER: Yeah, I've done that.

KEVIN BOOKER: Putting the conduit in does.

MOSER: Yeah.

KEVIN BOOKER: We call it a raceway system because it might be EMT, it might be PDC, it might be direct burial cable.

MOSER: It could be just an open raceway if it's low voltage or something probably.

KEVIN BOOKER: It could be.

MOSER: Yeah. And so I assume that since that question went that way that pulling conductors would be a higher-licensed job to make sure that you're putting the right conductors in the right place. And the-- you wouldn't-- you wouldn't allow just a regular construction worker to pull conductors and conduits or--

KEVIN BOOKER: No. No.

MOSER: OK. You said before there might be changes in the state law you think we could make to make things more fluid? Can you give us just example of what do you think we might change? Something in the spirit

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of the legislative resolution, but yet not compromising safety and launching everybody into a--

KEVIN BOOKER: Even our 3-to-1 ratio is compromising safety. When you hear from some of these other folks, some of the ratios for some of the-- if they're in a program, are 1 to 1 or 2 to 1. Our 3 to 1 is very lenient compared to the regulations in a lot of other states that I have personally worked as an electrician. Yeah.

MOSER: OK. Thank you.

LOWE: Thank you. Senator Blood.

BLOOD: Thank you, Senator Lowe. How are you today?

KEVIN BOOKER: Good.

BLOOD: Just a couple quick questions. Your job description in one sentence.

KEVIN BOOKER: My job description is to supervise the licensing, permitting, and inspection of the electricians in the state of Nebraska.

BLOOD: And so when we attempt to change anything that has to do with the safety of workers when it comes to electricity, you would be our go-to guy?

KEVIN BOOKER: I would be.

BLOOD: So can you tell me how many times you met prior to this hearing with Senator Briese's staff?

KEVIN BOOKER: Zero.

BLOOD: OK. So nobody reached out to you to talk to you about it in anticipation of whether this is something that needed to be done?

KEVIN BOOKER: No. I called and talked to his assistant or aide a week ago, after I seen that this meeting was coming up, asking for information on if there was anything I needed to bring to be able to answer to the committee without just showing up with zero knowledge of--

BLOOD: What was going on?

KEVIN BOOKER: --what was going on.

BLOOD: Fair enough. Thank you.

LOWE: Thank you, Senator Blood. Thank you. You had stated that you were having some problems with the out-of-state electricians coming in and working during the flooding or maybe not even electricians or-- or but you were having problems with some of that. Were they-- did they not have to apply for a license?

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KEVIN BOOKER: They should, but most of these weren't even electricians in the states they came from. So, you know, they--

LOWE: So it's buyer beware?

KEVIN BOOKER: Yeah, it's-- it's-- it's-- we had flooding. We had work that needed done. And a lot of people got ripped off. One primary example, not to take too much time, is replacement of 100-amp, water-damaged, electrical panel, just like-for-like, taking this one out, putting a new one in. The average cost of doing that job is \$1,400 by a licensed person. The call that I got from the Governor's office said that we had a contractor out of Omaha that charged them over \$9,000. And unfortunately, the authority of my office cannot regulate price gouging. You know, I have no-- no action that I could take against that electrician.

LOWE: He was an electrician?

KEVIN BOOKER: The one was, the \$9,000 one.

LOWE: Oh, the \$9,000 was.

KEVIN BOOKER: The other ones that I got the complaints on were unlicensed people where the homeowners were getting shocks or, you know, not quite doing things quite right that they were concerned, so they contacted us and asked if we would come and look at it. And if you were to see some of the things that I seen, you would just be--

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the basic knowledge that I think everybody in this room knows that if I'm going to extend a wire, I need to put a box in. This guy, from I think it was from Council Bluffs, twisted the wires together, wrapped them with electrical tape. You know, so basically it was a free-for-all. And unfortunately, as mentioned earlier, I don't have the staff to go out looking for these folks, you know?

LOWE: Um-hum.

KEVIN BOOKER: So I'm actually short one inspector right now, and I've had that opening-- he was involved in a vehicle accident where he was killed. I've had that opening open right now for over six months. Prior to me hiring him, I had it open for almost a year. I cannot fill inspector positions at \$18 to \$20 an hour where a journeyman electrician can go to the data center and make \$38 to \$58 an hour. My guys are underpaid for their qualifications, so I can't fill my positions.

LOWE: So are you short one or two inspectors then at this time?

KEVIN BOOKER: I'm short one full-time one.

LOWE: One full-time? What's the biggest barrier to increasing the number of electricians in our state?

KEVIN BOOKER: We have to do it statutorily. My staff is regulated by statute at 19 people. If you look at the number of licenses and

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permits that our office handles every day, on how much it's increased since that was put into law, you know, we've got double the workload with the same staff. So you know, we try to do what we can to coordinate those inspections to cover as many as we can. Right after the flooding occurred, I worked two weeks seven days in a row from 7:00 in the morning until 9:00 at night personally, doing inspections in the southeast Nebraska, which is the area that we had a large number of flooding there also, and then a little bit over by the Fremont area. So I only get paid so much. So I, personally on my own time, perform hundreds of inspections just because of the shortage. So if somebody called me and they needed the inspection and my inspectors had a log, I personally went out and did that inspection. So if somebody says they couldn't get an inspection, they didn't call me.

LOWE: All right. How about just electricians? I mean what-- what's the roadblock in-- in getting electricians?

KEVIN BOOKER: Competition with other states. Everybody needs electricians.

LOWE: The-- in the surrounding states, do you know the count for apprentices that it would take? Like how many apprentices does Iowa require-- require that can be underneath a journeyman or a--

KEVIN BOOKER: I think they're three to one also.

LOWE: Three to one.

KEVIN BOOKER: I'd have to verify that. But I do believe when they first come out with their state licensing law, they took a copy of our state act, and then they made it more strict. But I'm pretty sure they're still three to one. Somebody might be able to correct me.

LOWE: You said you'd worked in Kansas.

KEVIN BOOKER: Yes.

LOWE: Is Kansas-- what-- what do they have?

KEVIN BOOKER: Some are one to one.

LOWE: But that's just communities, municipalities.

KEVIN BOOKER: Community-- local jurisdictions, yes.

LOWE: And the outstate area? In the outstate area, what--

KEVIN BOOKER: None. Anybody can wire anything. If they can spell electrician and even if they can't, they are one, you know?

LOWE: So they could have 15 apprentices underneath 1 journeyman.

KEVIN BOOKER: In the rural area of Kansas, it's not covered under a local program.

LOWE: Yeah? OK. Thank you, I appreciate it. You had another?

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MOSER: Well, I was just-- your office does inspection and licensing, so you're-- correct?

KEVIN BOOKER: Yes. And we also do death investigation. Even if it's not a licensee, we investigate deaths of anything electrical-related. So rather it's manufacturing or we had-- about four years ago, I had a lineman up by Pierce, Nebraska, got killed. We investigate any electrical-related death or injury that's reported to us.

MOSER: To what point do you inspect installations? I mean like the utilities, do you have to inspect their work too?

KEVIN BOOKER: No.

MOSER: OK. So you--

KEVIN BOOKER: They're exempt under our act.

MOSER: They've got engineers to hopefully keep them safe.

KEVIN BOOKER: And most of the time, they are more strict than our guidelines. We are governed by the National Electrical Code, which is the NEC. They are under the NS-- NSEC, I believe it is, which is the "National Service Electrical Code." So a lot of their requirements are where we might say you only need to be two feet deep, the utility regulations would supersede us, say, three feet. So until it hits that metering device or--

MOSER: So from the meter on, it's kind of your jurisdiction?

KEVIN BOOKER: Yeah. Or in a lot of cases, the utility company might say the demarcation point which is the point that the customer is responsible for. Some of them are right at the meter, and some are at the property line.

MOSER: Oh, some, you got to go back to the poll. Yeah. OK. Receptacles that get wet and in a flood, do they have to be replaced?

KEVIN BOOKER: They do.

MOSER: Do you require that conductors be replaced too or?

KEVIN BOOKER: If they are in nonmetallic sheathed cable, which the trade name for that is Romex. And the reason for that is if you've ever stripped a piece of Romex, you can-- that little cloth-- or paper, outside shell before the plastic, that will hold water for years. And any time you get water in conductors, you create a resistance. There is a device out there called a Megger that they can measure that resistance in.

MOSER: In Megaohms. Yeah.

KEVIN BOOKER: Yeah. I would venture to say maybe I have a dozen contractors in the entire state that have that piece of equipment. So we require it to be replaced. The one thing we did do for the flooding, though is typically if you're going to modify a circuit, you

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have to bring it up to the current National Electrical Code. After discussions with the board, what we did there, number-- first thing we did was reduce our inspection cost \$25 for flood repairs. And we only required that they replace it to what the electrical code was at the time it was installed. So you know, under our new codes, they have to have the AFCI, GFCI protection. We have more stringent requirements today. But if it's been in that house for 20 years and the only reason that they're doing anything is because it got wet, we're only requiring them to replace it to what the code was at the time that it was installed. Our electrical board and myself personally have gotten a lot of flak for this from electricians and from local jurisdiction agencies, saying that we're backing things up and we're making things worse. But when we reviewed it as a division and as the board, we said hey, it's been here for 30 years or 20 years. We're only going to make you replace what was water-damaged.

MOSER: OK, thank you very much. Thank you, Mr. Chairman.

LOWE: One more question, getting back to the board. What's the makeup of the board and--

KEVIN BOOKER: We have seven members. We have a electrical inspector. We have a electrical contractor. We have a journeyman electrician. We have a rural utility person and a municipal utility company. And I do apologize. I did not bookmark that in my book. It is on our Web site.

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So we do have, you know, lay people on there. And like I say, we do have, you know, electricians on there and utility people on there, so it's pretty broad, you know? So you don't have just electricians, which would want to make things better for them, creating yeah--

LOWE: Yeah.

KEVIN BOOKER: So we do have a broad spectrum. And as you know, anything we do to the act requires legislation approval.

LOWE: What's-- how about the geographic area that they're spread over? Are they primarily in the eastern part of the state because it's simple to contact them and get them to meetings or are they spread out across-- because Nebraska is a great state and greater Nebraska's outside Lincoln?

KEVIN BOOKER: Yeah, it is. I mean we-- we do have everything from North Platte to Omaha that has a lot of development and a lot of, you know, construction going on for large projects. I have one inspector that covers the entire portion of the western side of the state, and he covers 11 counties. And as you know, the counties on that side of the state are very large counties. So he puts a lot of miles on his truck every day to cover his territory. We do have one Omaha inspector that is under state jurisdiction, but he only inspects state properties and public schools. Everything else, other than those two, is inspected by local jurisdiction. And thank God that the job that

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they're paying is a local jurisdiction area because they just got done hiring a couple more inspectors to try to help them. You know, data centers are going up. What else is going up? They need to house these people. So, you know, local jurisdictions are really growing.

LOWE: You'd also stated that under two years' experience, you can get a residential license, a rural residential license.

KEVIN BOOKER: Uh-huh.

LOWE: Are those able to work on-- on agricultural buildings too?

KEVIN BOOKER: Yeah.

LOWE: OK.

KEVIN BOOKER: But they still have to be supervised, and they still have to be employed by contractors.

LOWE: So they're employed by a electrical contractor, but they're--

KEVIN BOOKER: --supervised by journeymen.

LOWE: OK. All right. Senator Moser.

MOSER: Do you-- is your office funded by fees or does the state appropriate money to support your office? How do you--

KEVIN BOOKER: We are totally self-subsidized by license fees and permit fees. We get no state money. However, the state has come and taken money away from us when they have a shortfall so. Yeah.

MOSER: As it should be.

KEVIN BOOKER: The money that we would have had, that would have been very, very nice to add additional staff, got taken away from us.

MOSER: Are-- are the limits that you can pay your inspectors set by statute?

KEVIN BOOKER: No, they are set by the union contract through the Department of Administrative Services and the union--

MOSER: You do contract between the state and the employees.

KEVIN BOOKER: Between the state and employees union. And our inspectors' comparison, right now we're about \$15 an hour less than what one of our inspectors can go to work for in Wyoming or Iowa.

MOSER: Are you holding up progress because you aren't inspecting stuff fast enough?

KEVIN BOOKER: Well, I don't want to say we're holding it up because I personally am doing it now. I guess I need additional staff. I could use two more people today. So I don't want to say that we're holding up progress of anything because if I get a call that says hey, you

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know, you can't get anybody here for two weeks and we need to be able to insulate, I personally am going out and doing those inspections after hours. So I really don't want to say that we're holding up progress on anything.

MOSER: Not intentionally anyway.

KEVIN BOOKER: No. If I get the call, you know, I personally am doing them on my own time.

MOSER: Yeah, I think the city of Columbus couldn't find an electrical inspector, and so they turned all their inspections over to the state.

KEVIN BOOKER: And Seward also. So that added additional populations.

MOSER: Yeah. There's a lot of construction in Columbus right now.

KEVIN BOOKER: Like I say, if I had two inspectors tomorrow, besides the opening I got, I could keep them very busy. And unfortunately, what's the last thing we inspect? The center pivots. They're on the bottom of our list, and it might take us three or four years to get to them because we need to be able to make sure we get the inspections done on homes and commercial properties first. So we have our priorities of what has to be done. And the stuff that doesn't have to be inspected, unfortunately right now, it's kind of going to the bottom, which-- anything scares me when it's a potential for somebody to get hurt after we've already had one ag-related accident in the

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last year that killed a farmer. So but if you look at our licensing and permitting, it's optional. If they want to get that inspection, it's not mandatory.

MOSER: On a pivot, you mean?

KEVIN BOOKER: On a center pivot, it's optional. Most electricians do get that inspection.

MOSER: To protect themselves.

KEVIN BOOKER: To protect themselves. And they want that certificate of inspection not only for their file, but to give to their customer to say yes, look, it's been inspected, the state inspected it, the state approved it, you know? So we do get pressure from electricians that want to get some of these inspected right away that-- they want to get paid.

MOSER: So if you hired extra inspectors, would you have to adjust inspection fees to help cover those costs?

KEVIN BOOKER: No. I could very easily cover them with my current fees. Like I say, we had a buildup of money which got stolen from us-- well, borrowed from us permanently.

MOSER: Not like Social Security trust fund, you mean?

KEVIN BOOKER: So under our current rates, I could very easily pay for two additional inspectors without any additional fees.

MOSER: OK. Thank you very much.

KEVIN BOOKER: Thank you.

LOWE: Thank you, Senator. Any other questions? Director, thank you very much.

KEVIN BOOKER: Thank you.

LOWE: We'll now go to any other officially invited testimony.

KENT ROBERT: Good morning, Senators, my name is Kent Rogert, K-e-n-t R-o-g-e-r-t. And I'm here today representing Associated Builders and Contractors of Nebraska chapter. I don't see any reason to reiterate anything. Most everything has been said. One thing I did pick up earlier was this is not a union or a nonunion thing. It's a safety thing. So one of-- one of the things my folks wanted to make sure you guys understood is that the primary objective of a journeyman electrician is the safety of his apprentices and the work that's being done. And whatever changes be proposed, we just-- we'd like to be a part of the conversation. I'll answer any questions if I can, but I probably won't know much.

LOWE: Thank you. Senator Blood.

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BLOOD: Thank you, Senator Lowe. How are you today?

KENT ROBERT: Great.

BLOOD: Quick question. You said you'd like to be part of the conversation. So same as when I asked Mis-- Woodman? Sorry, I forgot his name.

HUNT: Booker.

BLOOD: What is it?

HUNT: Booker.

BLOOD: Booker. For some reason, I was thinking Wood. I apologize. Did anybody reach out to you prior to this--

KENT ROBERT: Well--

BLOOD: --hearing to seek to-- to gather ideas from you or concerns?

KENT ROBERT: I can't answer that. Not myself, but they may have reached out to my association.

BLOOD: OK.

KENT ROBERT: I had a conversation with Senator Briese's staff a couple weeks ago. And then there was a-- there have been a couple of bills introduced in the last couple-- two, three years that we've been kind of talking about. And but, you know, I don't know what all

conversations were had in the past, and I think that's what kind of what this was originally set up for.

BLOOD: OK. Thank you.

KENT ROBERT: Um-hum.

LOWE: Any other questions? Thank you.

KENT ROBERT: Thank you.

LOWE: Any other invited testimony? All right, now we'll just go to open testimony. Is there any other open testimony?

JESSICA KOLTERMAN: Good morning.

LOWE: Good morning. Please state and spell your name.

JESSICA KOLTERMAN: Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n, I represent Lincoln Premium Poultry, which is the Costco project in more familiar terms. We had actually looked at this issue because of the size and scope of our project. Several years ago-- and and just for the senators who are newer here, just bring you up to speed on-- on the size and scope, our project's scope in this state was unprecedented, especially in the rural areas. In addition to our 400,000-square-foot facility, our feed mill, our hatchery and our lab, we had 520 barns that need to be built in about a two-year period of time. The barns are roughly 600 feet by 60 feet. Our processing

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facility is about a quarter mile by a quarter mile, so I've been getting my steps in. But the capital investment of those have been about \$450 million for the Costco side and about \$300 million on the farmers' side. And ultimately that will have about a \$1.2 billion annual economic impact. I think at the core, what my takeaways are on this issue is that we need to find more electricians. We need more inspectors. But we also need to make sure that we're keeping people safe and trying to work towards achieving the goals of the state with economic development. So I think there's a way to do that in-- in collaboration and conversation. So one of the questions I received several years ago was on the scope, how-- how is this going to work? And what I can tell you is the challenge has been finding the electricians in the rural areas specifically, specifically to come out to those rural areas to work on the barns. We do not have any desire to compromise any safety issues. We truly intended, and have intended from the very beginning, to have the inspections. But there probably needs to be a way to achieve projects of this size and scope in the rural areas because we have had situations where we literally have chickens that have hatched in our hatchery ready to go up to the barns, and the electrical inspector is finishing up that morning. And that-- and I cannot say enough good things about Kevin and his team. They have been amazing. They have been accommodating. They have bent over backwards to assist our team. I have no-- no criticism of them whatsoever. In fact, I think that they are doing a phenomenal job, but

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they just don't have enough help. So that's something that I think we're all in agreement on. You know, the challenges-- we're involved with a really good and active group in Fremont called the Work Force Development Task Force. And that group is looking at all the trades, not just electrical. But I think we, you know, as a state need to continue to put a focus on that career path, that not every student in Nebraska needs to go and get a four-year degree and go on to higher education. I think we also need to let them know those jobs are here in our state and that they can make a really good living. We do see a small distinction between agriculture facilities versus homes and dwellings where people are living. And you know, if there's a way to keep the safety and the health protection of the people that work in those facilities while maybe still moving in a direction of getting that job done a little faster, that would be kind of where we would-- we would want to look at. I appreciated what Kevin said about the clarifications in streamlining. We definitely support that. I think that-- that we have talked to them previously about things that, you know, might be possible to achieve the goals that we've discussed. And I-- and I just want to say I appreciate the committee taking the time to look at this. From our perspective, we also want to be part of the conversation.

LOWE: Thank you very much. Are there any questions? Yes, Senator Moser.

MOSER: Did you contact members of the committee to support the legislative resolution to look into licensing?

JESSICA KOLTERMAN: We have worked, yes, previously with Senator Lowe on-- on this topic. So a couple of years ago, our general contractor actually brought a bill related to this topic. So it wasn't our bill. It was their bill. But obviously, we are part of the conversation just because of the size and scope of our project.

MOSER: OK. Thank you.

LOWE: Thank you. How's the project going? How-- how-- how are the barns doing, and are they being completed?

JESSICA KOLTERMAN: Well, we'll have our grand opening on Saturday. So you should have all received an invitation, and we'd love to have you. You know, the barns are coming along, but we, like everyone else in Nebraska, are struggling with the weather challenges. Our goal was to try to get as many barns under roof as we could before the winter so that the electricians and the equipment installation people could come in and do that. But of course, with the-- with the lovely flooding and then that wet weather continuing all through the entire summer and into the fall, we've had a little bit of challenge with that. Kind of not sure that will happen. So we will probably, like everyone else, be scrambling. One other thing I might mention that just occurred to me, during the flood we were at-- we actually received a call from the

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city of Fremont. They had so many people that needed electrical help that they asked us to release our electricians from our project to come into the community to help, you know, work on homes. And yet we are happy to be a partner and a collaborator with the community, and we we connected the city to our electricians. And I don't actually even know-- you know, I finally asked the mayor, did everything get resolved? And he said yes. So I don't know who helped and who came. But-- but I do know that was a real-- when I called the city, I said, what can we do to help? That was their response. You know, so I know that this isn't just a problem for us. I think this is just a problem in general throughout the-- you know, especially the rural areas of the state.

LOWE: All right. Yeah. Any other questions? No?

JESSICA KOLTERMAN: OK. Thank you.

LOWE: Thank you very much. Are there any other testifiers?

ROY LAMB: I'm taking my chair, all right?

LOWE: All right. Please state and spell your name for the committee.

ROY LAMB: Roy Lamb, R-o-y L-a-m-b, I'm the training coordinator for the Lincoln Electrical JATC. So I just kind of reiterate a couple of things that they've talked about as far as the apprentice registrations. That's exactly what it is. It's not a license, but it

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is required. I think one of your questions, Senator Moser, was do they have to be able to do that? Can-- can anyone do that wiring? No, they can't. If it falls under the scope of the National Electrical Code, they got to have that apprentice registration or journeyman license to legally do it. Now, is it done illegally? Absolutely. And I was going to say it's not, but. So I think one of the things really, that-- and everybody's talked about this, is the safety aspect. And it still comes down-- and part of this to me comes down to the-- to OSHA which is required by law. So the general duty clause-- I better read this if I have-- have it on my phone so. So each employer shall furnish each of his or her employees employment and a place of employment which are free from recognized hazards that are causing or likely to cause death or serious physical harm. This includes prevention and control of hazards of workplace violence. That's the law. The provi-- the employer has to provide that. So not providing-- by reducing or expanding that number of apprentices over that ratio, the problem that incurs is-- is now those individuals more than likely aren't going to get that training, the proper training that they're going to need to have that safe work environment. And it's just as me trying to go and do your job. As most of you I'm assuming are lawyers, I can't do that work just as you can't-- well, maybe not. But anyway--

LOWE: We're all a group.

ROY LAMB: --just as you can't-- sorry. All right, wrong group. But just as I wouldn't expect you to be able to go out and-- and wire up a house or a commercial occupancy, we all trust and use electricity and are dependent upon it. The thing is, you can't see it. I know it's there, and most of these other electricians know it's there. You know it's there. But if you don't know and don't have respect for it, as Barry talked about, it will find you. And it-- and you know, I'm-- and I do-- I do a lot of safety training for our apprentices. And one of the things that just, you know, I reiterate, just it's not a matter of if. It's a matter of when. And so understanding what those hazards are, putting those safeguards in place, elimination is the first thing. The sad thing is is that we get pressured all too often as electricians to get this work done fast or under deadlines. Or it's Friday. It's in the afternoon. I want to leave early. I want to go out to the lake. I want to whatever the case may be. We lose concentration. We don't understand what we're up against. And it just happens in an instant. I mean there-- you-- you can go on YouTube and find all kinds of videos and how fast that happens and how dangerous the work that we do. And the majority of the accidents happen at a lower voltage, at 480 volts and below. So the training is really important. And unfortunately, when I think if you go to expand that ratio, you're watering that down and you're not-- you're not getting that training that those individuals need to be safe, to be able to come home to work-- come home from work in the same condition that

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they left to their families. Because this stuff doesn't just affect that individual. It affects a lot of people. You know, Barry talked about that too, how, you know, he's seen that, dealt with that. So I just-- I just hope that the-- and the way to solve this, I don't know that there is a way. Kevin pointed that out. There's-- everybody's trying to get to that-- out of that piece of the pie. You know, when you're looking at-- 25, 30 percent of the work force in the construction industry now is in the baby boomer generation. I mean that's-- they're-- we've got a big void to fill. And we just have to continue to market that. I mean there's-- I tell you right now in all honesty, for an individual as an electrician to earn a six-figure salary is not uncommon, over \$100,000 a year doing electrical construction work. It's out there. I mean the opportunities are there. We just got to market that better to get to those individuals. It's not going to be easy. We're all suffering for work-- you know, all of us as far as the work force so. That's what I got.

LOWE: Thank you very much, Mr. Lamb. Are there any questions? I think you've worn us out.

ROY LAMB: Good. I'm glad. That's fine. Thank you.

LOWE: Thank you very much. Are there any other testifiers? All right. Since Senator Briese is not here, we will not have a closing

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statement. And so ends our short hearing for the day. Thank you very much for coming. [INAUDIBLE] Everybody need a short break?

BRANDT: No, let's keep-- let's keep rolling.

LOWE: OK. You want to run it while I sit down here?

MOSER: Sure, sure.

LOWE: Since this is my hearing-- since this is my hearing, I'm going to step down for just a second.

MOSER: Senator Lowe, please give us your opening statement.

LOWE: Thank you, Senator Moser and fellow members of the General Affairs Committee. I am John Lowe, that's J-o-h-n L-o-w-e, and I represent District 37. I'm here today to discuss LR98, an interim study looking at special designated liquor licenses. SDLs are utilized by a range of different entities in our state, ranging from churches during Lent to wineries hosting weddings to local breweries who want to offer samples of their products at farmers markets to various other users. SDLs are viewed differently by each of these stakeholders. I provided the committee with responses from several of these parties last month with three different questions. Those questions were: What would be the ideal policy change you would like to see happen; what is your line in the sand policy change that you would be opposed to; what can we accomplish to make doing business easier while maintaining

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public safety? As you can see in the responses from these stakeholders, there are a variety of viewpoints on this issue. My hope for this interim study is that each of these stakeholders will be able to further explain their responses to these three questions and help us find a way forward that is beneficial to all of our different groups who utilize SDLs. At the end of the day, I believe this interim study can be a helpful, fact-finding meeting. Afterwards I hope to get all the interested parties together at least once before session, so we can further discuss the most beneficial future legislation. That is my opening statement. I brought this because. The liquor licensing division issues a whole lot of liquor licenses or SDLs. And I think there should be a way we can make it easier so that they're not working-- working so hard and to make it easier on the people that use the SDLs.

MOSER: Questions for Senator Lowe? Going once, going twice. Thank you, Senator. OK. Do you have invited testimony? Do you have to take the commission-- the hearing back?

LOWE: Yeah, I'll take it.

MOSER: OK.

LOWE: I'd like to invite invited testimony up now. Let's-- Mike Murman from Glacial Till. I understand you have to leave early, so we'll--

MICHAEL MURMAN: Thank you. I actually sent my son to my meeting so.

LOWE: Please state your name and then spell it.

MICHAEL MURMAN: Michael L. Murman, M-i-c-h-a-e-l L M-u-r-m-a-n, as I've just stated, I'm Mike Murman, president of Glacial Till Vineyard and Winery. We were founded in 2008, so we've been in business a little bit over a decade. We're a family-owned and operated winery and cidery. We currently have two locations: our vineyard, winery, and event center located in rural Palmyra; and, our recently opened cider tap house, tasting room, and event center in downtown historic Ashland. To begin with, our farm winery business growth and success since 2008 would not be possible without us being able to use the SDLs that we've been granted over the last decade. I want to thank Hobie and the staff at the Nebraska Liquor Commission for their assistance and support in the last decade in helping us navigate not only the farm winery act, but then the rules and regulations that govern how we operate our business. In short, the only way and the only licenses that we're allowed to operate our business is with SDLs. So for the record, any change to the current rules and regulations regarding SDLs for farm wineries that would be more burdensome, take more time, or reduce the number we might receive we would be in adamant opposition. On the other hand, given the experience that we do have with over a decade of applying for and receiving SDLs and probably receiving the most of any wineries, I'll summarize my testimony with three

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recommendations for this interim study that I think will both benefit wineries and the Nebraska Liquor Control Commission. Going back to 1985 when the state and the legislative intent to allow the state to have farm wineries, I went back and looked at it. And as a legislative body, they wanted to encourage the production, manufacturing, and consumption of grapes and wine in the state of Nebraska. The Legislature recognized that farm-ranked wineries will stimulate the creation of jobs, investment in small communities, and provide tax revenue which would not otherwise be realized. So we-- here we are 30 years later, no changes to the licensing that was put in place since we've started. Looking at the legislative intent in Ashland in action, Glacial Till's business today employs 11 full-time employees, 38 part-time employees, for a total of 49 staff members. During 2019 we had over 20,000 visitors to our winery and vineyard in rural Palmyra. We've built an event center at the vineyard, and just recently we completed a 13,000-square-foot cider tap house, tasting room, and event center space in downtown historic Ashland. In 2014 we were the first winery to produce and distribute hard cider under the craft brewery license and today are the largest cidery in the state with volumes equaling the top ten craft breweries in the state. Although our growth has been good, it's been restricted by our lack of licensing options provided under the rules and regulations of the Nebraska Liquor Control Commission. In short, we can only get SDLs. So SDLs, as Senator Lowe had mentioned in his opening, what do we use

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them for? Farmer markets, to go out and let people sample our wines, our ciders, and promote Nebraska wine and the wine industry. In the last year we've received over 200 SDLs of which each one takes us a prop-- approximately one hour to successfully complete. And I say it's a process because it's a process of first dealing with city government, getting their approvals, meeting their timing, and then applying with the State Liquor Commission. Currently, with the number of SDLs that we've gotten in the last year, I've figured it takes six full weeks of a full-time employee to submit-- submit and manage the SDL process at a direct expense to us of at least \$15,000. Going into 2020, with the addition of our Ashland location and assuming we'll continue to get the support of being able to receive SDLs, if we have no other options, we will expect that we'll add at least 100 to 150 SDLs to continue to do our business in downtown Ashland. In addition to the number of SDLs that we get, it takes us from three to five weeks to go through the SDL process, which eliminates us from hosting or entertaining any type of events where a customer away-- may want choice because we can't meet any short-term commitment without getting the proper licensing. This time lag restricts us in doing short-term noticed events and costs us considerable business in both locations. So in conclusion, when we look at what the farm wineries need, I have three recommendations for this committee. One, a farm winery that has built a facility or facilities to promote tourism by incorporating event space or food service or both for public and private use can

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apply for an annual premise SDL. It would eliminate hundreds that we would have to apply for in both our Palmyra location and our Ashland location. Second, a farm winery-- a farm winery that regularly attends a seasonal event off-premise where they will be at the same location can apply for a seasonal SDL. We currently get over 100 SDLs for both Lincoln and Omaha farmer markets. If we could apply for one for the season, that would save us considerable time, save the Liquor Commission considerable time. Third, a farm winery that also holds a craft brewery license for hard cider will be given the same licensing rights provided by the state for craft breweries. So open for questions.

LOWE: Thank you very much, Mr. Murman. Are there any questions? I have one. Would you be open to a new type of license that would incorporate the wineries, because right now you have self-distribution with a farm winery license, that would remove that self-distribution which would allow you then to have your event space or whatever else you need?

MICHAEL MURMAN: Let me just back up. Under the craft brewery license, I'm allowed to apply for additional licenses. I've been-- I've been denied by the Nebraska Liquor Control Commission because they state that a farm winery can't hold any other licenses, although I'm following all the other taxes. I'm using the three-tiered distribution. But yet I compete with SARO Cider who has beer on tap. They can make craft cocktails. That's not fair. It's discriminatory.

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So if I bifurcate that, I should be able to get other licenses. That would solve many of my problems. But because the interpretive-- interpretation of the state is we can't hold any other licenses even though the farm winery act doesn't state that, I'm not really here to discuss whether to take distribution away from farm wineries. That's a line in the sand for all the farm wineries. But we do twelve times the volume of cider that we do wine, and I can't even get licenses to compete with other cideries in the state because they've chose to not be a farm winery. We started as a farm winery, so I can't take that back. So SDLs the only way we can do it, and the farm wine industry won't survive if they can't distribute their own product.

LOWE: Thank you. Senator Blood.

BLOOD: Thank you, Senator Lowe. I initially didn't have questions, but you made a comment that I kind of want to build on. So when you started your business, you started your business as a winery. You chose not to be a bar, right?

MICHAEL MURMAN: Right, we're not a bar.

BLOOD: But-- but yet you'd like some of the amenities that come along with perhaps being able to sell other types of alcohol.

MICHAEL MURMAN: Yeah, I would put it more, we're in the tourism business, wine business, and we're there to serve what customers want. At our winery, 80 percent of the events that we do there are private.

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And the people that rent that facility want choice. So that's-- that's the only option is to get SDLs to provide them that choice.

BLOOD: So when you wrote your business plan for your event center, was that something that you-- you put in your business plan, that you understood this-- this was going to be something that was going to be addressed, or is it something you decided after the fact?

MICHAEL MURMAN: I would say our business plan has evolved. So when we started in 2008, my son was the winemaker and the single employee.

BLOOD: Um-hum.

MICHAEL MURMAN: So as time evolved, we realized that to just make wine in the state of Nebraska would not be able to support the kind of company that we've now built. And so we quickly realized that we needed to add event space to be able to accommodate and attract people to our rural setting. And so I-- I wouldn't say it was a part of a grand plan as much as it was something that we realized we had to do to be able to create a business that would be bigger than one person.

BLOOD: And so-- and I mean this in a way that I'm not trying to pick a fight with you in any way. I just really want an answer to this question.

MICHAEL MURMAN: Sure. OK.

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BLOOD: So no offense when I ask this question, OK? So say that a craft brewer decided that they needed to expand services beyond what they're doing, and needed-- they wanted to make more money so they could cater to more people. Is it right to constantly be changing these-- these permits based on people wanting to make more money?

MICHAEL MURMAN: I guess I'm not quite sure I fully understand the question.

BLOOD: So if I hear you correctly, you want more flexibility because you have a greater demand for things outside of wine. But in order to do that, it sounds like you would like to see some changes at the state level when it comes to who can do and sell what. Is that not correct?

MICHAEL MURMAN: No, I wouldn't think so. I'm perfectly fine getting SDLs just the same way we are now. We've been successfully operating our business the way that we are. I'm looking to give relief to the Nebraska Liquor Control Commission. And all of the SDLs-- I shouldn't say all. The majority of the SDLs, and we're talking about probably several thousand, have all been granted--

BLOOD: Right.

MICHAEL MURMAN: --in the last decade. And we follow all the rules and regulations in regard to responsible handling of liquor, and we're probably contributing as much in tax revenues as any of the farm

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wineries. So back to the initial intent of-- what the legislative intent was from 1985, I think we're meeting all those things and doing it with protecting the public. We've been serving alcohol for a decade and have zero infractions. And I think the Liquor Commission would support that. So I'm not looking for some simpler, easier licensing that's going to make me more profit. Obviously profit is an incentive for us. That's how we grow. That's how we employ more people.

BLOOD: Right.

MICHAEL MURMAN: So I think profit is a good thing. And we can be profitable. I'm just looking at the time cost. If-- if next year is like this year, I'll have one full-time employee spending almost a quarter to a half of a year just dealing with licensing. You're talking about \$30,000, \$40,000 in direct labor costs, and then those monies could be better spent on advertising and marketing. And I think, you know, I may be wrong, but I would think the Liquor Commission would welcome a-- options on SDLs for farm wineries only. I'm not talking about any other industries. But farm wineries, they would have all of the controls to take it away from you just like they can now. So I really don't see it as any change in anything that's different right now than cutting down the amount of paperwork and time that it takes.

BLOOD: So your focus is the SDL. I was basing that question based on that brief conversation you just had with Senator Lowe in reference to the cider. So I-- perhaps I misunderstood so.

MICHAEL MURMAN: It gets complicated because--

BLOOD: No, it is very complicated. I--

MICHAEL MURMAN: Yeah.

BLOOD: --I agree. All right. Thank you very much.

LOWE: Thank you, Senator Blood. Senator Moser.

MOSER: How many SDLs do you get a year?

MICHAEL MURMAN: The Liquor Commission would know better than I, but I know for 2019 we're over 200.

MOSER: And they cover how long of a time, each SDL?

MICHAEL MURMAN: They're always specific to a date and a time and an event.

MOSER: So just one day, or it could be like a three-day?

MICHAEL MURMAN: One day possibly. They can be multiday, but only for a few. The ones that we typically get are for a specific date.

MOSER: OK. Thank you.

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LOWE: Thank you, Senator Moser. You had said that you were using the three-tiered system. Is that-- are you also distributing through a distributor, your wine, or are you self-distributing your wine?

MICHAEL MURMAN: No, I would bifurcate the two. Wine, we self-distribute. And then cider, because of-- in Nebraska-- although at a federal level cider is a wine product, in Nebraska it's-- it's regulated and taxed as beer. So it ends up in a different bucket.

LOWE: OK. All right. Thank you very much. Senator Blood.

BLOOD: Just one more quick question. Can-- isn't there a farm wine tax that goes into promotion?

MICHAEL MURMAN: There'd be other people that can speak better to taxes and-- and where those monies go.

BLOOD: But I do think, having sat on this committee for multiple years, that there is some money that comes specifically for the promotion of Nebraska wineries because it is considered a tourism location.

MICHAEL MURMAN: Right. Um-hum.

BLOOD: Do-- do you recall what that amount is?

MICHAEL MURMAN: No.

BLOOD: Do you know if it's like six cents?

MICHAEL MURMAN: I-- like I said-- Yeah.

BLOOD: All right. Thanks.

MICHAEL MURMAN: Um-hum.

LOWE: Thanks, Senator Blood. Thank you, Mr. Murman.

MICHAEL MURMAN: Thank you.

LOWE: Appreciate you coming.

MICHAEL MURMAN: Um-hum.

LOWE: We'll now have Don Emig from Nebraska Wholesalers.

DON EMIG: Good morning.

LOWE: Good morning. Please state and then spell your name.

DON EMIG: All right. My name is Don Emig, D-o-n E-m-i-g. I'm the president for Republic National Distributing Company here in Omaha, and North and South Dakota-- or in Nebraska, and North and South Dakota. We are in the wholesale adult beverage business for the state of Nebraska and 23 other states around the country. I have 220 employees and their families that live here in Nebraska and work for our company. And I'm here this morning to testify as a neutral state on SDLs. As a wholesale tier, we think they're prob-- we think they're

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necessary in some regards to charitable events, weekend-- weekend farmers markets, fish fries, things of that nature. So you won't see me taking on the Catholic Church in this-- in this event. There are a couple of caveats that-- that we're always cautious of in regards to the SDLs. And that's-- one is, the gentleman before spoke of, the number of them that some locations are getting. And the only reason it's concerning to us is that at no time in the three-tier system should any level have a foot on two different rungs of that level-- or of that three-tier system. So if you're going to get 200 SDLs, are you really a farm winery or are you a package store or a restaurant-- or a bar restaurant? And the other one is the return of product that might be purchased from us. In the previous gentleman's case, it's-- it's normally just his product and his tasting. But for a fish fry, if they were to purchase a product from us, they're taking an estimate of what the needs for that event might be. And in the eye of the public safety-- as I've discussed with the commission, at the end of the event and if it rained or if it snowed or whatever might have happened, their estimates might have been way over. So now they've got this inventory coming back. So in the eye of the public safety, that inventory needs to stay controlled by someone. But it's-- a lot of time that burden falls back on us to make sure that inventory is brought back in. It's costly to do that. You pull it, you pick it, you ship it, you send it back. So those are the real two concerns. Outside of that, I have-- I have no opposition to SDLs. I'm not

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administratively attached to them, so there's no cost to us in that regard, OK? I'm open for questions if you need.

LOWE: Thank you very much. Any questions? Do you see a better answer than SDLs or multiple days or?

DON EMIG: Yeah. I think-- I think-- Yeah. After hearing the testimony from the previous gentleman, if-- if 200 is the right number for him but yet it plays within the limits of the rules and the laws of the three-tier system, I would say why not? But for him to have to spend three months filling out paperwork, yeah, that's-- that's-- in this day and age, that does seem a little excessive in my book so.

LOWE: You span a couple of states. What was it-- was it Iowa?

DON EMIG: North and South Dakota.

LOWE: North and south-- are-- are they much different than Nebraska?

DON EMIG: Yeah, I think they're very different in some regards. South-- South Dakota, much like Nebraska. South Dakota, it's even more the wild, wild west. So you just call the department of revenue, here's what I'm doing. They say yep, go for it. So they're pretty wide open up there yet.

LOWE: All right.

DON EMIG: Yeah. So--

LOWE: Thank you very much.

DON EMIG: Yep. You're welcome.

LOWE: Any other questions? Thank you very much, Mr. Emig.

DON EMIG: Yep.

LOWE: We'll now have Abby Gillick from Associated Beverage Distrib--
Distributors. Thank you very much. If you would please state and then
spell your name.

ABBEY GILLICK: Absolutely. Good morning. My name is Abbey Gillick,
A-b-b-e-y G-i-l-l-i-c-k, and I have the pleasure of serving as the
Nebraska's director and distributor member of the National Beer
Wholesalers Association Board of Directors. Today I'm testifying on
behalf of ABDN or the Associated Beverage Distributors of Nebraska, a
trade association of 17 family-owned and operated beer distributors.
The distribution tier in Nebraska employs over 800 people, all
providing choice and variety to retailers and consumers statewide. I
thank you for the opportunity to express the views of our members and
their employees in regards to LR98. As administered, the process of
issuing special designated licenses, or SDLs, we believe has deviated
beyond the original intent of the statute. This calls for reform to
provide clarity to the regulated entities in the industry. First, our
association is seeking clarity on which types of not-for-profit
organizations are eligible to apply for an SDL and fall within the

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categories listed in the SDL statute. Second, we believe that the original intent of the SDL statute was not to allow the exemption of certain alcohol vendors from the reasonable requirements that are placed on vendors in the state. When a vendor applies for an SDL on the commission's website, waivers from all the requirements imposed on vendors with the exception of the age of consumption can be requested by the applicant. We encourage the review of these applications regarding the waivers based on the number and purpose for which some of the vendors seek SDLs. In reviewing SDLs issued in 2018 and 2019, we found that certain vendors have applied for and received hundreds of SDLs because their underlying license does not permit them to operate in a particular tier. In fact, the waivers are referred to as waiving the magic wand in the industry since it overrides state law. For example, waivers from 53-175 are often sought to permit entities to obtain product through means other than a wholesaler. This is problematic because it takes out the distribution tier, something the Liquor Control Act otherwise would not allow. The common justification for waiver of 53-175 is the donation of product. But I can tell you that my three distributorships donate product all the time. I'd be curious to know whether unsold or unused alcohol is returned at the conclusion of the event in accordance with the act as it would be a violation to store alcohol product in an unlicensed location. To protect the community's health, welfare, and safety, these issues need to be addressed. Third, we cannot find any other state that permits

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waivers to the liquor control statutes that are put in place to regulate and protect public health, welfare, and safety. We believe that the Nebraska Liquor Control Commission's approval process of SDLs should be deliberative, as stated in law, when considering an application. The current process has allowed for these licenses to be issued at an alarming rate. This not only deregulates the industry through administrative procedure, but allows the playing field to be tipped toward those acquiring large numbers of SDLs to create a business model based on SDLs and not the law. Fourth, we are in support of the idea of grouping SDLs for specific events like farmer's markets, fish fries, or other commonly occurring events. We are supportive of the concept that one SDL could be issued for multiday events. However, ABDN would support this initiative as long as it does not pose a detriment to the three-tier system of regulation. In closing, Nebraska Beer Distributors look forward to the continued opportunity to address and fix some of the issues regarding the SDL process. I sincerely thank you for your time this morning and I'm pleased to answer any questions you might have.

LOWE: Thank you, Ms. Gillick. Senator Blood.

BLOOD: Thank you, Senator Lowe. How are you today, Abbey?

ABBEY GILLICK: I'm great. How are you?

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BLOOD: I am well, thank you. I just have a couple of quick questions for you. So listening to your testimony, you specifically touched on 53-175. So I am sure as big as your distributor-- distributorship is, you guys get tons of requests--

ABBEY GILLICK: Absolutely.

BLOOD: --and donations for like community events and whatnot. So you touched a little bit on it. Can you just kind of walk me through the process, how this works with an SDL, that relationship?

ABBEY GILLICK: Absolutely. So we have three distributors in the state, Omaha, Lincoln, and North Platte. And so just our Omaha numbers, we have worked with over 40 organizations this year applying for SDLs, looking for product donations. I would probably estimate another 20 for the other locations as well. So we're contacted by not-for-profits for different community events, looking for product donations. And they-- we either help them through the process if they're unfamiliar with how to apply for an SDL. Or they come to us with an SDL already, and then we're able to donate products to their events.

BLOOD: So pretty time consuming, it sounds like.

ABBEY GILLICK: I mean not really. We want to sample our products. We want to make sure that we're pillars of the community.

BLOOD: So you look at it as a community outreach that actually helps promote your business?

ABBEY GILLICK: Absolutely. I actually serve on the board of two nonprofit-- nonprofits in Omaha, you know, professional boards, and we use SDLs to get product donations for our events as well.

BLOOD: Yes. You also touched down on the three-tiered system of regulation. Can you just briefly talk about why that's important to your organization?

ABBEY GILLICK: Absolutely. My organization, we employ over 300 Nebraskans with full-time health and benefits, and we purchase trucks. We have companies, you know, retail-- I'm sorry, not retail, real estate. We have three different warehouses in the state as well. And so for us, the three-tier system is very important not only for public health and safety, if there's any product recalls or anything that we need to take care of with our retailers, but just so that we can invest in our state.

BLOOD: Thank you.

LOWE: Senator Brandt.

BRANDT: Thank you, Chairman Lowe. Thank you, Abbey, for testifying today. The testifier for the wineries, one of his suggestions was to have an annual premise SDL. Would you have any opposition to that?

ABBEY GILLICK: You know, mainly our concern is that everyone operates within their tier of license and to actually keep that regulatory system, the three-tier system in place. That's one of my primary concerns. So I believe that would just be changing a license versus having that grouped together, SDLs that we talked about, with the farmers markets or with, you know, different events.

BRANDT: All right. Thank you.

LOWE: Thank you, Senator Brandt. Any other questions? So you would-- you're pretty much basing your whole business plan on one of the legs of the stool, distribution.

ABBEY GILLICK: Absolutely. As a distributor, we're the second tier. Our product-- our entire purpose is to effectively distribute beer throughout the system to our retailers. We have-- you know, we have 3,500 licensed retail accounts that we see on a regular basis, that we are their primary consultant in our industry. So being that middle tier is very important to us.

LOWE: All right. Thank you, Ms. Gillick.

ABBEY GILLICK: Thank you.

LOWE: Now we have some invited representatives from the retailers. Is there anybody here from the retailers? No? OK. We can come back to you later. How about Mike McDowell from the wine and grow-- grape growers?

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MICK MCDOWELL: Thank you, Senator Lowe.

LOWE: Thank you.

MICK MCDOWELL: My name is Mick, M-i-c-k, last name is McDowell, M-c-D-o-w-e-l-l. My wife and I own Miletta Vista Winery at St. Paul, Nebraska. We're a company that's been in business for approximately 12 years. We did have a fire in 2012. A lot of you might have heard that or seen that on the news. It burned us down, so we did choose to rebuild. And we had enough success during that period of time, those first five years, that we actually enlarged our facility a little bit to accommodate what we saw as some growing demand. So Miletta Vista Winery is not located in the middle of nowhere, but I can definitely see it from the top of our hill. We are located in rural Nebraska. We're 30 miles north of Grand Island. Ninety-eight percent of our customers come from over an hour away, and at least, they come when weather and road conditions permit. So we are seeing, since the fire actually, a big increase also in the people from Columbus that are coming to our facility as well. As an owner of Miletta Vista Winery and the winemaker, I take great pride in producing not just good wine, but great wine. Nothing reinforces my efforts as a winemaker more than customers who come and say that they've enjoyed every wine that they've tried at our winery that day. Comments like that and having peers that have judged our wines in competitions reward our-- my hard work in making Nebraska's-- some of Nebraska's best wines. We have a

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product and a location that customers from around the state and around the world enjoy. I say that because that was part of our marketing plan. That was something that we wanted to make sure that we did, that we produced product that everyone could enjoy. And it's something that-- over the past 12 years since we've opened, we've actually won 3 best-of-show wines across-- and probably our most satisfying was one in Sonoma, California, at the national competition. So I believe the type of product that we're trying to produce in Nebraska represents our state well. It brings tourists to our state. At the time we started the winery, I never thought that we would ever consider serving anything other than Nebraska wines we make. I really didn't. However, in the small state of 2 million people and in a rural area that is 4 miles north of St. Paul, we set up on top of a hill. It hasn't proven to be the case that we can just survive just on the wines that we produce. We get a lot of requests from potential customers that are wanting wedding rehearsal dinners, Christmas parties, wedding anniversary parties. And up to this point in time, we've been unwilling to apply for the SDLs because we wanted to be able to promote our wines. But we have found that that doesn't accommodate our customers that well and it probably reduces or restricts our business model. So in 2010 we also opened a wine-- or a restaurant for the winery so that people could come enjoy the food and the wines that we serve at our location. So as a result, our traffic has increased due to the foods/restaurant side of things. As we attend

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wineries in California, Oregon, other parts of the country, we see that a lot of those have food at those locations. I just received a video from Ohio, and I think they had about 12 or 13 wineries there. And I would say easily, ten of those have restaurant sides to their business. So it has become, nationally even, a big part of everyone's business model. So SDLs are becoming a part of our liquor-- or our restaurant and liquor licensing. We serve food every day of the week that we're open for lunches, appetizers, for our customers as they come. And we've expanded it to serve dinners on Friday and Saturday nights. During the summer nights, we include-- expand that to include Wednesdays, Thursdays. We stay open till 9:00. We don't want to stay open longer than that. We don't want to become a bar and be open until 2 a.m.. I don't see closing time changing in our business plan. Customer base is not a bar base, nor is that what we want. We serve meals. We sell more meals to sell more Nebraska-made wines, and we lose, we guesstimate, about 30 percent of the restaurant business because we don't serve other products. We can't even have a license to serve, let's say, craft brews. And I know I've got some friends that they come up one time a year because their wives have the birthday. They get to choose where they go. The husbands like the beer. They don't want to come because we don't have any kind of beer at all unless we have an SDL in place. So we lose them three or four times a year. We get them once. We would like to be able to expand that in some way. I'm really testifying neutral because I'm not sure what the

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SDL bill is or what it is supposed to be. But I do know that in other states across the country, many wineries are given multilicensing by the authorities that govern them. In Iowa for instance, they allow serving wines made on the premise and beer by the glass, same as in Oregon, beer by the glass and ciders and the wine that they make at the facility. Colorado allows vintner restaurants full-bar privileges, but they have to produce the wine that they serve at their vintner restaurant on premise. In Missouri, farm wineries are allowed the equivalent of a Nebraska Class C license, that's on sale and off sale. I don't necessarily feel that I need that. But that is what Iowa allows and the same in South Dakota. South Dakota has probably one of the more open laws. Ohio also allows multilicensing option for their farm wineries. They allow beer and spirits at winery restaurants. And that information I did include in a-- in part of my information for you here. So why should Nebraska licensing be any less if Nebraska state leaders are interested in rural development? We could be the poster child, at Miletta Vista Winery, for rural development. We're located four miles north of St. Paul. We set up on top of a hill. As I said, we may not be in the middle of nowhere, but you can definitely see it from there. Most of our customers travel an hour to get to us. So applying for SDLs, as an avenue to meet customer requests, has become a little more regular part of our business because we have started doing this to provide customers with satisfi-- satisfactory experience, wedding rehearsals, wedding anniversaries, etcetera. But

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it's very time-consuming and costs us roughly \$100 to \$125 per SDL, which includes a physical trip into the courthouse to pick up the SDL in order for us to be able to submit it to the Liquor Control Commission. So frankly, it is taxing on our small staff. There has to be a better way to allow wineries and winery restaurants to operate. Other states have found that way to work with the wineries seeking to expand their customer offerings, and it's in a responsible manner. And I hope the state of Nebraska can too. One thing I didn't say is that we have 5 employees full-time, 22 part-time employees, and we opened in 2007. Thank you. I'll answer questions.

LOWE: Thank you, Mr. McDowell. Senator Blood.

BLOOD: Thank you, Senator Lowe. How are you this afternoon?

MICK MCDOWELL: Good.

BLOOD: Or morning. Now I don't even know what time it is. It's so dark in here.

MICK MCDOWELL: I think it's still morning, yeah.

BLOOD: Yeah. You heard me ask a question in reference to the farm wine tax, and I bet you know the answer to that one, right?

MICK MCDOWELL: I think so. I think we-- there is a six-cents tax that goes in to-- and then there is also a grower's tax. I think it's a penny a pound. It's \$20 per-- penny a pound for the grapes that we buy

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in the state of Nebraska, and then I think it's the equivalent for the wineries tax also. And then also for promotions, there is a licensing fee. And I think all the licensing fees do go to the "Wine and Grape Board" and then they distribute grants. And a lot of those do go for our promotion for our industry.

BLOOD: So Nebraska has been quite generous--

MICK MCDOWELL: Yes.

BLOOD: --in helping wineries and craft brewing as well--

MICK MCDOWELL: Yes.

BLOOD: --in-- in getting kick-started here in Nebraska.

MICK MCDOWELL: Very much so on the winery side. I can't speak for the breweries, but yes, I would say you've been very nice to us.

BLOOD: And so one of the questions I have for you is that, you know, I always worry. Part of the three-tiered system--

MICK MCDOWELL: Yeah.

BLOOD: --you know, keeping it pristine cuts down on confusion. And I-- and I worry as we-- we talk about people whose initial intent was to do one thing, and now they want to do something else. And I'm not saying I'm against that.

MICK MCDOWELL: Um-hum.

BLOOD: I just have some concerns.

MICK MCDOWELL: Sure.

BLOOD: Let's look at the SDLs. So let's say that you consider yourself an events center in some factors.

MICK MCDOWELL: Um-hum.

BLOOD: What should be the difference between, say, a nonprofit and a wedding when it comes to S-- do you think there should be any difference as to how an SDL would work?

MICK MCDOWELL: Now you put me in a very politically incorrect position on that.

BLOOD: I-- I-- and my-- I-- my intent is only to gather information.

MICK MCDOWELL: Could you repeat your question one more time?

BLOOD: So talking about SDLs--

MICK MCDOWELL: Yeah.

BLOOD: --do you think there should be a difference between how we serve somebody, say, from a nonprofit like the Omaha Women's Fund or a church--

MICK MCDOWELL: Um-hum.

BLOOD: --or, say, a wedding?

MICK MCDOWELL: And that's a really good question. We've talked about that a little bit off and on. Someone had mentioned one of the churches and a lot of the churches are large. They have large congregations, especially if they're hosting events that they want to require alcohol at. And one of the questions is does their congregation not have a license-holding member in their congregation that can actually apply for an SDL where their license and their livelihood is dependent upon them being governed by the laws of the state in Nebraska rather than granting the nonprofit willy-nilly and then not having a license that's at risk? So you know, yeah, I think there probably is and are some differences. And I think there are probably enough individuals who have a business plan. For instance, our local liquor store, they apply for SDLs. They have a Class C license.

BLOOD: Right.

MICK MCDOWELL: And so they serve a lot of Wild Turkey Federation, Ducks Unlimited. There isn't any reason that they can't apply for any fish fries, things like that. And their license then is governed by how well they perform their duties on that SDL. If you go to a nonprofit who has absolutely nothing to lose, are you putting the

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people of Nebraska at risk? Probably so because they haven't been trained. They don't know. They don't understand the liquor laws and rules and regulations. They don't know how to return it. They may not, you know, know how to police it and keep it in a secured storage facility. So I think there are avenues, that probably the license holders currently that are in the state of Nebraska, have liquor licenses, could serve needs for those individuals today.

BLOOD: Fair enough. Thank you.

MICK MCDOWELL: OK. Thank you.

LOWE: Thank you very much, Senator Blood. Senator Moser.

MOSER: How many SDLs do you get a year?

MICK MCDOWELL: We just increased that. This last few years, the only SDLs that we had really gotten was to serve our wines at the Crane Center for the 12 days-- or I think it's 10 days in one location that the Liquor Control Commission allows you to. So up until this year, that was all that we had-- had-- had applied for. But we've found that-- for instance, we had a wedding rehearsal dinner. Guy was coming from Chicago this Friday, and he wanted to have some craft Nebraska beers. And so we were able to go through a local distributor, get those beers. They went through 3 cases of beers and 18 bottles of wine, you know, for a group of 45 for that-- that one particular license. That was good for us. So I'm going to say this year, we're

probably going to be at about 30. You know, it's where we're at right now.

MOSER: What's the application fee for a SDL?

MICK MCDOWELL: They're-- I don't think that there is an application fee for an SDL right now. Is that correct? Yeah. Because I have a catering license, I don't know. Yeah, it is a \$40 application if you don't have the catering license so. We went ahead and got the lice-- the catering license which allows you up to 100 SDLs.

MOSER: OK. Thank you.

MICK MCDOWELL: Yeah.

LOWE: Senator Blood.

BLOOD: Just one more quick question. So you keep answering questions, creating more questions.

MICK MCDOWELL: That's all right.

BLOOD: So you touched down briefly on some other states. What states self-distribute wines, do you know?

MICK MCDOWELL: A lot of states do allow self-distribution. I did a little preparation for last year's bill, and I only looked at about 15 states.

BLOOD: OK.

MICK MCDOWELL: And about half of those allowed self-distribution.

Well, I think the farm winery allows self-distribution, but I think that about half those states allowed for self-distribution. The states that I quoted like Iowa, Missouri, Colorado both allow self-distribution and multilicensing. So I think with the-- you know, what was it, in 1929 prohibition was lifted? So and the question is-- I think the Pony Express was gone at that time. Hobie, you were around then, was that? Yes, Pony Express-- so we have the like-- [LAUGHTER] Sorry. But you know, we have things like Internet and ways that we report and we have audits and we have forensic accounting. We have so many things that both can look at the product that we bring in, the product that we sell, products that we are taxed on to verify and make sure that what we're doing is in compliance with the federal and state laws. So things have changed a great deal. Our ability to answer the questions so that we protect the public has changed. And I-- at one time, I thought that every state allowed self-- self-distribution, but even just looking through my little chart here, it's about 50 percent that I can see.

BLOOD: Thank you.

MICK MCDOWELL: You bet.

LOWE: Thank you very much. Any other questions? Thank you very much.

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MICK MCDOWELL: You're welcome. Thank you.

LOWE: Appreciate it, Mr. McDowell. Is there anybody else from the Wine and Grape Growers Association who would like to speak while we're on the line? No, not at this time? Well, now I go to Jim Engelbart from the craft brewing.

JIM ENGELBART: Good morning.

LOWE: Good morning.

JIM ENGELBART: My name's Jim Engelbart. J-i-m E-n-g-e-l-b-a-r-t. I'm the operations manager for Emyrean Brewing Company. I'm also president of the Nebraska Brewers Guild, but I am here today on behalf of Emyrean to share with you how we as a distributing brewery utilize SDLs in the state of Nebraska. We distribute beer statewide in Nebraska through partnerships with six beer wholesalers and in each of the surrounding states around us, as well as North Dakota and Minnesota through similar partnerships with wholesalers. We also utilize our statute rights to deliver beer to our own locations here in Lincoln and also in Omaha. And lastly, the reason we're here today, we sell and donate beer both through our wholesalers and directly to many SDLs throughout the year. All the above transactions of beer that leave our brewery are documented because it's the law. Everything that leaves the brewery has-- beer doesn't move unless it's on paper is my saying for my employees. And so there's tax dollars attached to

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everything that leaves the brewery. Whether it's donated or sold, we pay tax on every ounce of beer that leaves our brewery because it's the law. For events that are utilizing SDLs, for-profit, or not-for-profit our first choice is typically to have our wholesale partners involved in the transaction. As you heard Abbey say earlier, I mean this is what their business model is designed to do is just to stock and store beer. They have trucks. They have a warehouse. They have a huge staff of people to be able to put beer retailers or events all over the place. Our business model is based on making beer and selling it at our own locations. So they're better suited in a lot of ways than we are, but there's some times where the transaction makes better sense to come directly from us for the brewery. So we appreciate the flexibility. Nine times out of ten, can we make someone else do it? Yes, and we will. But there's times-- I use an example that's coming up this Saturday. We have an event at-- fundraiser actually for the guild. It's on an SDL that the guild applied for. And it's at The Hop Yard in Plattsmouth. And we have two beers we're featuring there that we made very small batches of, and for the most part have sold all of within our doors. We haven't sold them through distribution. So my wholesalers don't have a stock of these products. I need to take two kegs out to this event for the fundraiser. So we're going to, again, build the event directly on a zero invoice and deliver the beer directly from the brewery. We can only do that because as we filled out the SDL, we applied for the exception via the

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statute that allows us to deliver beer direct from us, the manufacturer, to this event or SDL. Those are very rare occurrences for us. I can-- we've done three transactions like that all year. All of them have been from the brewery to events that were fundraisers for the Brewers Guild. So we're pretty picky and choosy about which SDLs we'll do that for. Part of the reason is, as was mentioned earlier by a lot of these people, is the people filling out the SDL, whether it's a retailer or a not-for-profit, don't always know they need to apply for those exceptions. And if they haven't applied for them, we can't sell directly to that SDL. So for us to stay in compliance, we have to make sure we know what's on the SDL that we're going to quote, unquote: sell or donate beer to. So in terms of what we've done for SDLs companywide this year, we've applied for and used five SDLs. All were for-profit events. The nice thing, again, about the SDL is it's really-- it's a special license for a special circumstance. Our circumstance is at our warehouse in south Lincoln-- south Haymarket, sorry. We have a large parking area that's outside, and it's very conducive to us having a few events a year when the weather's nice. And we partner up with a couple other businesses in town to do a bike event that raises money for charity. We still run the event for profit and donate some of the funds that we've made for profit to the charity after the fact. We don't go up front as a not-for-profit event on these, but the long and the short of it is our parking lot doesn't need a license every day. We have a license inside the warehouse, but

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we want to be able to sell beer and have people out in the parking lot with beer as well, properly fenced obviously, as the local authorities make us do. So with all that being said, it's again, very conducive for us to be able to apply for a license that allows us to have those one-time, special events. The-- again, in terms of doing them on all-- on our premise, the length of the license is typically about six hours of a single day. It's not a multiday license type thing that we do. As a business, we're happy with the current SDL system. We believe it provides a flexible framework for licensing, making these events, again, traceable by the authorities and "administrated" by the authorities to get the license to begin with. It allows us to do alcohol sales in an environment that's outside of the normal day-to-day business. We do understand that there may be a better way for an LCC to administer special licenses. And we're willing to work with all of the industry partners, both as a brewery and again, as-- from the guild's standpoint, to again, make this-- the process as streamlined, as efficient for everyone involved as can be. We will oppose any changes that restrict or change accesses to SDLs. So I mean in looking at this whole study, if you're going to come in and burn the whole thing down and start over, we don't really think that's in our best interest and probably not the best interest for most of the people here in the room either. Together we think that we can all come together as we've done on previous legislation and come up with a

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system that works good for all of us. With that said, I'd answer any questions.

LOWE: Senator Blood.

BLOOD: Thank you, Senator Lowe. Thank you for your testimony. Just a quick question. So you just said together we can-- we can work together and come up with the best resolution. Are you guys now meeting on a regular basis with each other?

JIM ENGELBART: We meet on a quarterly basis with the-- the guild exec board and the ABDM-- BDN, Abby's group. We're getting together on a quarterly basis. It's been really nice to, again, sit down and share. You know, we have more in common than we do differences.

BLOOD: Absolutely.

JIM ENGELBART: That being said, we're all businesses and very interested in protecting our turf. We don't necessarily, any of us, feel like we'd benefit a lot from a huge disruption to the system. So again, whether it's protecting turf, whether it's trying to make sure that we're being efficient both from the standpoint of businesses, the standpoint of government, the more we work together and are open in the process of forming solutions to these types of issues, the better solution we'll all have going forward.

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BLOOD: And do you see that as something that you're going to continue to do as you move forward?

JIM ENGELBART: I've been in this business for 26 years. Pretty much my only professional job I've had is in beer. And there's been a good--

BLOOD: What does that make you? Just curious, is there a name for it like a "beer meister?"

JIM ENGELBART: No. I'm-- I'm-- there's still plenty of--

LOWE: Happy?

JIM ENGELBART: --there's still plenty of people with way more experience in many different areas. There's a-- it's a-- the one thing I like about this business is you never can stop learning whether it's about the product you're making or the environment you get to sell it in. It's-- it's been a very interesting job. Let me-- let me just put it that way. But yeah-- so every circumstance in the past that's come up involving statutes and legislation where one side is trying to go around-- doing it around all of the other sides, whether it's the retail segment, whether it's the wholesale segment, I don't like to have, you know, any sort of three-tier arguments with anybody. But I mean to be perfectly honest, as a brewery in the state of Nebraska, we operate in all three parts of the tier. Whether anybody wants to say that out loud or not, I just did. We are a retailer, we are a manufacturer, and we can sell beer to our own retail locations which

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technically makes us a distributor. Nobody likes to hear that, but it's true. And it's in statute currently. So again, there are ways to work together. It took a lot of work with the wholesale tier and the retail tier to be able to get the licensing we have on the beer side now. Whether or not that makes 100 percent sense for wineries, it's not really my place to say.

BLOOD: So when we had the big brouhaha my freshman year, were you meeting with them at that time on a regular basis?

JIM ENGELBART: Not on a regular basis, no. You know, the lead up to LB1105, we had a lot of meetings with-- with the wholesalers leading up to that--

BLOOD: Um-hum.

JIM ENGELBART: --in antici-- and again-- in part too, again, to say hey, we all have some skin in this game.

BLOOD: Right.

JIM ENGELBART: So for us to try and do something without including them, you know, is not going to work. And we'd like to think that it would work the same way, that, you know, for them to try and change something statute that is only going to favor them and not the other parts of the tiers, as we say, the retail and manufacturing tier, why-- why is that OK either? So again, working together, I think

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that's what we're here for as government, to try and solve these issues together.

BLOOD: I'm happy to hear that and I do sincerely hope that you guys continue to work together because I think all of that could have probably been eliminated had you done some.

JIM ENGELBART: You got to have fun sometime, right?

BLOOD: It was a fun year for a freshman year, yes. Thank you.

LOWE: Thank you, Senator Blood. Anybody else? So would you be opposed to like a multiday SDL, not consecutively but--

JIM ENGELBART: Of all the ideas I've heard go around, that's the one that I feel the least amount of pushback or hear the least amount of pushback to. I mean it just kind of makes good sense. And at the same time, you want to keep the license special, I mean the reasons for it being there. It's a location that normally isn't set up just like a farmers market environment. But you don't want to have a location that doesn't meet fire code being able to get 300 licenses a year. So somewhere between those extremes of this just doesn't make sense at all, there's no local oversight, there's no way for the state to control it, versus it's-- it's so nonconducive to anybody being able to do business, you know? In the middle I think is-- is kind of where the solutions are going to be.

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LOWE: Would you say that maybe for something like an extended SDL that there has to be some server training also?

JIM ENGELBART: I think it's a great idea. I think, again as was stated earlier, having someone with quote unquote: skin in the game, the license on the line for anything that happens. Wasn't within SDL having a catering license tied to a not-for-profits event? Every one of those that we've ever participated in has been a cakewalk. Anytime we've participated in an event where the not-for-profit event applied for their own SDL, we have to do a lot of coaching. As Abbey said, they-- they-- they're set up to be able to offer that service for that very reason. We carry a catering-- catering license and so we, again, have to be internally half people on staff that are able to coach a not-for-profit through-- through that application process, to make sure they-- you know, if they need to apply for the special waivers, they can. If they don't, they don't need to worry about it. But again, as a service-- you know, as a manufacturer, as a retailer, that's a service we provide on our catering license too. We haven't done an SDL on our catering license in four or five years.

LOWE: All right. Thank you very much.

JIM ENGELBART: Um-hum.

LOWE: Any other questions? Thank you very much, Mr. Engelbart.

JIM ENGELBART: Thank you for your time.

LOWE: Let's go to Lindsey Clements from the Craft Brewers Guild.

LINDSEY CLEMENTS: I think we're at afternoon, around that. Good afternoon, my name is Lindsey Clements, L-i-n-d-s-e-y C-l-e-m-t-s [SIC]. I'm the cofounder of Vis Major Brewing in Omaha. And I'm here today to share with you how on premise only breweries such as ours utilize SDLs and why it's important to our business that current regulatory-- regulatory flexibility remain. Though we don't distribute our beer, we value the opportunity to participate in select events throughout the year. There are two primary occurrences in which we participate in events where an SDL is utilized. One example is our brewery-sponsored event, CenterFest, that I organized along with community volunteers. Our festival is located just outside our brewery doors, and in its second year, CenterFest has brought together over 2,000 member-- members of our surrounding neighborhoods for a day of fun and community. The SDL that I obtained allowed for my customers to enjoy our beer outside while shopping at craft stalls, playing games, listening to live music. The event was planned over the course of several months and required a significant investment by Vis Major to use in-- the use of the SDL allowed for our small business to reach beyond our average capabilities. In addition to the event Vis Major hosted, I obtained an SDL to serve our beer at HutchFEST, an outdoor event that attracted over 8,000 attendees and featured local artisans,

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food, and beverage vendors. I utilized the provision allowed for with an SDL to sell our product directly to the public and once again seize an opportunity to gain extended exposure to new customers and grow our brand. Both the beer and the revenue of the event are reported for sales and excise taxes. The second example of how we use-- utilize SDLs through supporting not-for-profits, such as the Nebraska Craft Brewers Guild, doing fundraising events in which we donate one to two sixth barrels. The guild secures an SDL for each fundraiser with a waiver allowing for nondistributed brewers, such as ourselves, to participate. I delivered the donated product to the event along with an invoice-- zero invoice for reporting. We include these donations with our monthly excise reports in which taxes are collected. As a guild member, it's important that the current provisions remain, allowing for us to participate in these events. We are in agreement with the efforts to reduce paperwork in regards to the SDLs and are open to fee realignment. What is important for our brewery and others that shall-- share our business model is that the current regulatory flexibility remains available to us so that we too can participate in events that expand exposure to our brands and enable us to support causes that are important for our small businesses. Happy to answer any questions.

LOWE: Thank you very much. Senators?

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BLOOD: There's nobody left.

MOSE: We kind of lost our quorum.

LOWE: Yeah. No. Thank you very much.

LINDSEY CLEMENTS: Thank you.

LOWE: And is-- are you having as much fun brewing as you did when you first opened?

LINDSEY CLEMENTS: Absolutely. It's always-- you know, there's-- obviously from day to day, there's going to be natural challenges that come with running any business. So there's-- at every turn, there's something new to learn. But by all means, it's-- it's-- I wouldn't change it. Happy to be where we're at. Thank you.

LOWE: Thank you for being a small business.

LINDSEY CLEMENTS: Yeah, thank you.

LOWE: Now we go to Gabby.

GABBY AYALA: I'm going to stay safe and say good day, since none of us are sure what time it is. My name is Gabby Ayala, Gabby is G-a-b-b-y A-y-a-l-a, and I'm the executive director for the Nebraska Craft Brewers Guild. The guild is a nonprofit trade association whose mission is to foster a Nebraska-centric community that is informed, enthusiastic, and actively creating unity among-- among its members

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and-- on market and public policy issues to create the most business-friendly climate for craft brewers. The guild currently represents over 94 percent of all breweries in the state, and we're incredibly proud to be able to promote and advocate for each and every one of those. I've been invited here to share information specifically and answer questions pertaining to how nonprofit organizations navigate the SDL process. The guild helps coordinate many different types of events that require special designated licenses. From simple tastings, events associated with conferences such as the Nebraska Tourism Conference, to larger fundraising events like the Hot Cup at Nebraska Brewing Company, the guild and its members are entrenched in the SDL process. The guild also partners with other nonprofit organizations to create dynamic events that support local craft brewers as well as other vital causes throughout the state. Nonprofit organizations are currently allowed to have six SDLs in a calendar year. However, this year, during an NLCC hearing, the commissioners approved the guild to have 18 SDLs in a calendar year due to our expertise in the industry. When a nonprofit organization applies for an SDL, they must follow the same rules and regulations required of any other liquor license holder in the state of Nebraska who also wants to obtain an SDL. In addition to those standard regulations, nonprofit organizations need to submit additional paperwork. A nonprofit who wishes to apply for an SDL must first register their nonprofit with the Liquor Control Commission. After their registration

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has been approved, the nonprofit is now able to navigate the on-line application process and proceed. The organization must fill out the local approval form 200 and submit it to the city or county clerk where the event is to be held. The organization will also fill out and submit a nonprofit affidavit form 201, which is to be signed by a notary. And form 201 basically just verifies that the organization is in fact a nonprofit. Once the city or county clerk approves the local approval form, it is sent back to the organization. The nonprofit organization then uploads the local approval form, the nonprofit affidavit form, and any other special license forms necessary for the event such as like outdoor diagrams or fence waivers or anything that-- else that NLCC might need to see. In the on-line application and upload forms, that-- the applicant will also add exceptions that they'd like NLCC to add to their special designated license. And then after the forms and on-line application are submitted, NLCC notifies the applicant of approval, and if approved, the SDL is then mailed to the city and county clerk. Since the guild received a waiver from NLCC to obtain up to 18 SDLs in a calendar year, we are also required to submit to NLCC all invoices from donation or purchase of product associated with each event. These invoices indicate the volume of beer each brewery, distributor, or retailer sold or donated to the events. The guild is committed to creating opportunities for all of our members no matter the type of brewery they operate. This includes large and small breweries, distributing and nondistributing breweries,

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and all types in between. We aim to make sure that all are offered a seat at the table when it comes to guild events, and we look forward to working with legislators and the Liquor Control Commission and all of our industry partners to help make the SDL process more efficient, streamlined, and reduce overhead costs of the process. I'm happy to answer any questions specific to nonprofit SDLs, and thank you all for having me today.

LOWE: Thank you very much.

GABBY AYALA: Yeah, no problem.

LOWE: Appreciate it. Are there any questions? Thank you very much.

GABBY AYALA: Yeah, thank you.

LOWE: We will now go to Vanessa Silke.

VANESSA SILKE: I would like to pass unless you have questions for me.

I'm fine with--

LOWE: You don't like us?

VANESSA SILKE: I love you all--

LOWE: OK.

VANESSA SILKE: --everyone of you.

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LOWE: It must be lunchtime. We'll now go to the Liquor Control

Commissioner, Mr. Rupe?

HOBERT RUPE: [INAUDIBLE] I was always told only the person standing between people is going to get any lunch.

MOSER: Start the timer.

HOBERT RUPE: Well, hopefully I won't be that long. I'll try not to be. But according to someone else, I've been around here since the Pony Express time. I think someone's on the audit short list. [LAUGHTER] That's a kid, we just did him last year. I don't think so. Hello. My name is Hobert Rupe, I'm the executive director of the Nebraska Liquor Control Commission. And I've handed out a couple of things, and I'll try to let you know just sort of what the scope of the issue is, what we're looking on SDLs. You know, first off, I think there's a lot of confusion, and so I'll be-- try to be brief. You know, when do you need a liquor license? Well, you need a liquor license if you're going to sell alcohol or if you're going to be open for the general public. A lot of times if you're selling alcohol, it's easy, you know? I mean and yes, we do include that if you have factored in the cost into your ticket price, that's a sell. You know, whether you're open to the public, whether, you know-- wedding receptions, that kind of stuff, that's where it gets a little murkier. So you know, if in doubt, we recommend someone getting an SDL, OK. Who can get SDLs? Retail license

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holders, craft breweries, farm wineries, craft distillers on the licensing side, nonprofits if you meet the requirements that-- pretty much if you don't pay-- you don't have to pay federal taxes if you are a charitable organization, a political organization, a museum doesn't have to. There's a whole list of who doesn't have to play. So as I say, those are the non-professional side, OK. What you're seeing in what's the blue bar graph, that's sort of the number of increases of number of SDLs we issue per year. Please note that 2019 is-- that's just to date. So I believe we are going to cross over 5,000 this year because that is to the end of September. One thing you have to remember, we've already tried a couple things legislatively recently to reduce the number of SDLs. About six years ago, we changed some of the statutes regarding the buffers that universities had to allow places like Champions Club, which was a big user of SDLs, to get permanently licensed and other things. So we've tried-- we've tried to address them as it's come up, but as you can see by the numbers, the numbers continue to increase. We have two FT-- I have two FTEs, staff assistants in my office whose primary jobs are SDLs. The commission has been, I think, proactive as much as we can internally. We-- we've worked with the office of-- the CIO's office to make them electronically. So they're trying to transfer them quickly. We've now got it-- as of September 1, we allow-- we will now instead of mailing the SDL, we will ship it electronically to the clerk because, shockingly enough, the mail system is not that efficient. And so we've

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tried to do things as much as we can internally to-- to-- to do it.

But as you can see, the numbers are continuing. I guess I'm going to try to explain a little bit. There's a couple of other questions got raised, the difference on the farm wineries and the craft breweries issues, OK? Back, you know, when I was in high school, so, you know, back in the early '80s, Nebraska pretty much had a strong, clear, three-tiered system. You were either a manufacturer first tier-- so you were either a manufacturer who had a shipping license into the state of Nebraska, you were a wholesaler, either a liquor, wine, or a beer wholesaler who was able to buy from that manufacturer, and then you were able to sell to the third tier, the retailers, OK. In the '80s you had the beginning of what are commonly called the hybrid licenses. And I think that's part of the confusion that you're seeing here today. You had the farm winery act, which at its inception was considered to be a manufacturer primarily, but we're going to allow them to also have wholesale distribution rights of only their own products. So they had limited manufacture. They could only make up to a certain amount of gallonage. At that time it had to be 75 percent at least Nebraska agricultural product. Now that's been changed this year. As the manufacturer, they could also then wholesale, so they could go to the local grocery store themselves and sell-- say hey, would you want to carry my product? And then they could also retail, but they were only limited to just their own product. And that was for the business model the way I looked at it.

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When I went back and reread the-- the legislative history, they were seen primarily as small manufacturers within limited wholesale and limited retail rights. Compare that to a couple of years later. You get the craft brewery licenses going forward. And the craft breweries were seen as a retailer primarily who then-- because let's be honest, back then, oh nobody's not going to drink Budweiser. They're not going to drink this stuff. But they were primarily seen as retail or restaurant association locations, which they had limited manufacturing rights, so they could make their own beer for on premise consumption. And if they wanted to sell it beyond-- off their premise, they would then sell it through the wholesale tier. And as part of that, they have always been able to get an additional retail license besides the Class L craft brewery license. So they would get a C or an I, whatever met their require-- requirements to have beer, wine, spirits from other manufacturers. OK. I'm not sure those assumptions back in the '80s are actually reflective of the current business model of either of those two entities today. Clearly the-- a lot of your farm wineries are sit-- are doing more and more events at their locations. They've become wedding revent-- event centers. They've become class reunion event centers. And I'm not going to put words in their mouth. They said earlier, a lot of times, people want some product other than Nebraska wine. They're just not wine drinkers. Maybe they're beer drinkers. And so if they're going to an event, they have to get an SDL because there's a series of Attorney Generals' Opinions which say that

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they can't get additional retail license because that's different from what the craft breweries could. So one of the reasons I think you're seeing an increase in SDLs is that you're seeing some of those entities utilizing that mechanism because that's the only met-- way they can get there. Remember, the SDL allows the commission to waive any rule or statute of the Liquor Control Act with the exception of the age of consumption. And so what they will-- and so what we're doing is oftentimes, we're giving SDLs at a location which is completely legal for retail consumption of the wine they produce. So they met the fire code. They've met the sanitation code. But they want to be able to then buy beer from their local wholesaler to have that as well for this class reunion. So that's one of the reasons you're seeing an increase in that. One of the other issues which sort of got brought up around this is sort of-- and it's sort of a misunderstood rule at the commission. Currently one of the problems I think we have in our act is we don't have a definition of a caterer. And so we have a caterer's endorsement, it's like a CDL on top of your regular driver's license. You have-- or have to have a retail license or a farm winery or a craft brewery license to get the caterer. And you see a lot of people get that for one reason and one reason only. If you're applying to the commission, you have to pay per day for your application fee and you're limited to six. There's a whole part of that statute except at-- the last sentence says this provision does not apply to the holder or caterer's permit. So people will get a

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caterer's permit for \$100 additional license fee because it makes more sense, that if they're going to do more than two SDLs, to get the caterer's permit because then they don't have to pay for it because the caterers can get an unlimited amount of SDLs because they were caterers. And so you've got a lot of entities out there who have caterers licenses who pretty much you would not think are caterers if you looked at their business model. But they're doing it because they're doing the SDLs. So that's one thing we think we possibly-- and I am the classic person to say that, always be careful, when you start tugging strings on this tapestry, what's going to unravel. That's one thing I think we need to look at is how do we handle the catering licenses and their utilization? And the reason they get the caterer's permit is also-- is because they can have more than six then. I'm not sure why we limited them to six back in the statutory time. I don't think we should waive that six for nonprofits because I don't think we want to open up the door for nonprofessionals. But if we're going to look at the caterer permit, perhaps we should look at whether we should change the amount of SDLs that a license holder can get. And at its very simplest terms, if a license holder screws up at an SDL, the commission still has the hammer. If a-- if a nonprofit screws up or a nonlicense holder screws up in an SDL, our only recourse is not to issue any more SDLs to that entity. And amazingly enough, the-- the Chamber of Commerce, you know, special committee will change the following year and have newer members now apply for it so. So that's

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one of the issues I think we need to look at is, you know, sort of making-- making the diff-- the difference between a nonprofit and the license-- retail licenses more clear. Other issue, I guess you've heard about 125 being utilized. It's funny to notice is that the waiver of the acquis-- 175-- actually I read back 20 some years ago came from the wholesale tier. You know, they-- because what you've got there is that green thing. That's a snapshot of the first 1,000 licenses we issued this year, 2019. And you'll see, slightly over half of them actually asked for the waiver of that 175. Three-hundred and fifty of those were nonprofits. And the reason why the nonprofits often ask for waivers is because they're getting donations of product. We are far more comfortable as a regulator allowing donation of profit to a nonlicensee because then you're not looking at pay-for-play or shelf space problems. And so if you're going to have it being a manufacturer or a retailer, we much prefer if you're going to be donating, it does actually go into a nonprofit which has met the requirements that you heard Gabby talk about. The next highest utilizer of that waiver are caterers, and those are true caterers at that point. They usually have a stockpile of their own product. They're taking from their location. They're going to the location of the SDL, say a wedding reception, selling, doing everything else there, and then taking their product back. That is caterers. They're holders of retail licenses that's been acquired through the three-tiered system. Excise tax has been paid, not a big issue. Then

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you have some of the retailers, and that's generally where you have some of the more problematic waivers of the SDL. Couple of questions that came up earlier. The S-1 license types go to the "Farm and Winery Board." Those are currently \$500 per licensee. We have, as of today, 573 of those. So that's \$286,500 roughly that would go to that [INAUDIBLE] that instead of going to the General Fund as a license fee. The other question got raised up was the 12-day confusion. This commission has a rule that no location which could otherwise be ran on a liquor license-- so in other words, that sort of takes out the farmers markets right out of it. Because they could not otherwise-- last time I checked, I can't permanently license 8th and P in the Haymarket, the corner there. We have-- it's a tripwire statute. It's not-- you can't have more than 12 at a single location. It's a tripwire for an investigation by the commission whether you should be permanently licensed. That rule came about years ago. We had a caterer in Waverly who was getting a special designated license for every Saturday night in a warehouse in Havelock that have-- that was a fire trap. And so the purpose of that rule is are you using places at this location to sort of get around the health, safety, and electrical? And so that's our tripwire. So for instance, we have a list of people who we can have more than 12. The vast majority of those are small community centers where the city or village itself doesn't want to have a liquor license. And they have multiple caterers coming in, but they're using it more than 12. And they'll supply us with this

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particular occupancy showing their meet-- meet the codes. And so that concern is-- is lifted. So if somebody says you can have more than 12 at a location, well, no, that's-- that's the tripwire where we look at it. And like for instance, we've got-- we'll have one hour, Jennifer, tomorrow where we've got a small village wants to have more than 12 at the location. They submitted the certificate of occupancy. They're using license-- three or four different caterers event-- you know, license holders. So it's not really a place where somebody should probably be permanently licensed. So a couple things we think we should look at, perhaps addressing the caterers use, whether it's needed, if we then lift the number of SDLs at a retail location. You know, that's the main reason why they're getting it. Also they probably won't like this part. If they're actually paying for everyday they're doing it, maybe they'll be more circumspect on actually doing them instead of-- you know-- because right now there's no cost from the state to get the SDL. The other issue is definitely I believe we should look at a seasonal type of SDL, the farmers markets, you know, 20 SDLs where we know exactly what they're doing for all those 20 Saturdays, where they're going to be located. Unfortunately, the statute doesn't allow us because they're not continuous days, therefore an SDL must be-- come in for each of those applications. You know, and like you said, the issue which was brought up earlier is, you know, a lot of the Sturm und Drang seems to be about the farm wineries utilizing a lot of SDLs instead of being able to get

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additional retail licenses. That's up to your stat, whether you guys believe you need to change the farm winery act in some way, shape, or form. But that's why they are using a lot of SDLs. I could go on forever and people would say please, god, no. So with that, I would be happy to answer any questions that you might have.

LOWE: Thank you, Commissioner. Well, no? You've done a great job explaining things and I--

HOBERT RUPE: I'm going to take that as my opportunity to get up and get out of here because that normally doesn't happen. I thank you for your questions.

LOWE: Thank you very much.

HOBERT RUPE: And once again, if-- if any of you have any questions on the technical aspects, I'm always available. I got to work with Carol-- Senator Blood on a couple of issues on SDLs. You know, sometimes our rules might not make sense, but I can at least try to explain why they arguably do. So thank you.

LOWE: All right. I'll open it up to any other invited testimony.

CHRISTY ABRAHAM: Thank you, Senator Lowe, and I promise to be brief. Thank you, Senator.

LOWE: Are you going to stay?

BLOOD: I feel an obligation to stay.

BRANDT: All right. Let's go.

CHRISTY ABRAHAM: Thank you to Senator Briese's office for reaching out to us. I'm Christy Abraham. I'm with the League of Nebraska Municipalities. We just want to say thank you so much for including us in this. As you know, municipalities do have to approve SDLs. We would like to continue to do that. But certainly one part of the discussion, if you decide to start streamlining this process, we did support Senator Lowe's last year on an optional expedited-- expedited process for caterers. We want to be part of that discussion. And that's all I have to say. So thank you so much, and thank you for staying, all three of you.

LOWE: Thank you, Ms. Abraham. Any questions? Thank you very much.

CHRISTY ABRAHAM: Thank you so much.

LOWE: Is there anybody else that would like to testify? I'll open it up to everybody now.

TAD FRAIZER: I don't want to keep anyone from lunch, but I wanted to make a couple of comments. My name is Tad Fraizer, that's T-a-d F-r-a-i-z-e-r. I'm appearing for myself. You may have seen me in front of some of your committees on behalf of clients, but I'm just relating some personal experience with SDLs. For about 25 years, I worked with

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a nonprofit here in Lincoln that put on a variety of special events, some with alcohol, some without. And we took out SDLs. For a few years, I was actually registered as an unpaid lobbyist for the group just to keep track of matters pertaining to nonprofits and SDLs.

Excuse me. The group is basically disbanded because we burned out all our volunteers, but I did want to say that SDLs can be important for nonprofits. They're both a patron amenity for things like music events and they're a revenue source to put on events. When we put on music events on the street, I did the logistics in addition to permits, you could spend \$30,000 to \$40,000 just putting up the infrastructure before you hired the bands, before you bought the beer, whatever. So alcohol could be an important revenue source, and I think it serves that way for other entities. There were a couple of comments that disturbed me a little bit suggesting that nonprofits don't really care or don't have a stake in the matter. I think any nonprofit is trying to serve its community, so it cares if it screws up handling alcohol. It cares with its own reputation. And I can spin it another way. If we're moving extra product or something, it doesn't move-- make any money for us. Or as, you know, a retailer, maybe they've got a payroll to make. Maybe they've got rent to pay. There's some temptation there. So it-- it works on both sides of the equation. We work closely with the Liquor Commission. I don't think we ever had problems. I think Mr. Rupe would say that we-- we knew how to run the rules. I was the designated wet blanket on the site making sure that people were

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complying with all the alcohol rules and such. So I think SDLs are still important. I'd be cautious about how you tried to restrict or even consider eliminating SDLs for nonprofits. I would also point out that the waivers can be important. We generally, for our larger events obviously, went to distributors, but the waiver does at times allow you to purchase direct from a retailer for a small event. You might just be buying one keg. You might be buying a couple bottles of alcohol to make cocktails. There, having some of the waivers to like purchase from a retailer are important. Sometimes some of the fencing requirements-- we had to put in for waivers to accommodate the physical realities of our site, things like that. So those can perform an important function as far as handling SDLs. And I just wanted to make those points briefly, and I'd be happy to answer any questions or get out of your way and let you get to lunch.

LOWE: Are there any questions? Thank you, Mr. Fraizer. Appreciate you coming. Anybody else like to testify? Please state and spell your name.

CHRIS WAGNER: Good afternoon. Chris Wagner, C-h-r-i-s W-a-g-n-e-r, I'm the executive director of Project Extra Mile, and I will just say that many, many of my points have actually already been touched on, so I'll do my best to summarize. I just wanted to convey really that we want to express our-- express our support for the valuable safeguards that are already in place and some potential changes that could further

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protect public health and safety. First of all, I do want to mention that we fully support the three-tier system. It's really an important regulatory structure that states rely on to protect many of these safeguards, and it provides a critical separation of functions within the alcohol industry. And we would not recommend weakening and-- weakening it in any form. As Mr. Rupe mentioned, there are almost as many SDLs will be issued this year as there are annual liquor licenses in the state. And that is problematic because it does increase that alcohol outlet density, if only for a temporary-- on a temporary basis and the harms that that can come with it. But I think, you know, a significant portion of these are nonprofit events, and we're concerned with this in that, though-- a lot of the folks that end up selling the alcohol are volunteers. You know, they want to help out, but they're not necessarily trained on how to, you know, read an ID, how to spot a-- you know, a fake ID, how to spot signs of intoxication, how to deal with potentially intoxicated and belligerent patrons. So we-- we definitely think that there is a need for a mandatory training component for-- for SDLs. Should the committee decide to reform the process, that is-- that is a reform that we would like to see. And I would really say for all SDLs because, as many of you may know, there is no mandatory requirement for training for-- even for annual license holders. A lot of the times when they-- there is a violation, they'll have a training as a part of their penalty. But there is no-- there is no requirement for training, and we would like to see that happen for

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SDL events. And part of the reason is because these events by and large are, you know, one-day events, and there's not really sufficient accountability through the administrative process for these because these just disappear. Now, certainly the commission, as Mr. Rupe mentioned, can take that into consideration the next time one comes up. But it doesn't really prevent-- it's not really a preventive method-- measure in terms of dealing with the violation, really, you know, having that deterrent out there. And then, as the League of Municipalities said, we fully support local control over SDLs. We're a preemptive state. So you know, all of the decisions regarding annual licenses are made by the commission. They receive a recommendation from the local governing body, but they make the ultimate call on this. However, for SDLs, the commission cannot issue an SDL over the objections of the local governing body, and we feel that's really important because they need to be involved in that process. They need to know how many-- if they need law enforcement resources in the area of an SDL depending on the traffic and the expected attendance. And they're the ones that are most likely-- they're the ones on the ground most likely to be knowledgeable of any kind of problems that organizers may have had in the past and can address that on the front end as that process begins for the next SDL. So those are essentially the three points I wanted to make, and I'll conclude with those.

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LOWE: Thank you very much. Any questions? I appreciate you coming today.

CHRIS WAGNER: Thanks.

LOWE: Thank you, Mr. Wagner. Anybody else? Going once, going twice.

I'd like to thank everybody for coming today for both of these hearings and that closes the hearing on LR98.