

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BRIESE: We'll get started here. Welcome and good afternoon. Welcome to General Affairs Committee. My name is Tom Briese. I'm the senator from District 41. I'm the Chairman of this committee and will be conducting today's hearing. We're here today for the purpose of conducting five bill hearings. We will be proceeding in the order of the agenda that is posted outside this 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 either side of the room. If you're here and you do not wish to testify, but you do wish to state your support or opposition on any of the matters before us, we ask that you fill out one of the sign-in sheets. If you do testify, we ask you to begin your testimony by stating and spelling your name for the record, which is very important for our Transcribers Office. The order of proceedings is that the introducers will be given an opportunity to open on their bills, then we will hear the proponents, opponents, and then neutral testimony. Following the testimonies, the introducer will be given an opportunity to close. We ask that you listen very carefully and try not to be repetitive. We do use a light system in the General Affairs Committee. How many folks are we gonna have testifying today? Raise your hand if you plan on testifying? OK. Thank you. Each testifier is gonna be afforded three minutes to testify. When the yellow light comes on, you'll have one minute remaining and we ask that you begin concluding your remarks. When the red light comes on, your time is expired and we'll open up the committee to any questions they may have of you. At this time, I'd like to encourage everyone to turn off or silence any cell phones or electronic devices, anything that makes noise. The General Affairs Committee is a committee that is equipped for 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. If you have a prepared statement and exhibit or anything you would like distributed to the committee members, we ask that you provide 12 copies to our committee clerk. If you don't have 12 copies, don't worry, provide what you have and we will take care of it. I'd like to first introduce, to my right, my legal counsel for the General Affairs Committee, Loguen Blazek; and at the far left, committee clerk, Alexander DeGarmo. And with that, I'd like to proceed with introduction of the committee members starting with Senator Blood on the right.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

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

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

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

LOWE: John Lowe, District 37, southeast half of Buffalo County.

MOSE: Mike Moser, District 22. I represent Platte County, a little bit of Colfax County, and most of Stanton County.

BRANDT: Tom Brandt, District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties.

BRIESE: Senator Wayne's not with us yet. He should be joining us later. And I'd like to introduce our pages. Would you guys like to stand? And we have Angenita, who's a student at Union College; and we have Taylor, who's a student at Doane College. Thanks for helping us out, guys. And with that, I would like to open the hearing on LB1090. Senator Blood.

BLOOD: I was waiting for you to read your little speech.

BRIESE: Good afternoon and welcome, Senator Blood.

BLOOD: Well, thank you, Chairman Briese, and good afternoon to the entire General Affairs Committee. My name is Senator Carol Blood, and that is spelled C-a-r-o-l B-- as in boy-- l-o-o-d as in dog, and I represent District 3, which is western Bellevue and southeastern Papillion, Nebraska. So thank you for the opportunity today to present LB1090. So operating a business in Nebraska is a privilege. When someone is allowed that privilege, it comes along with certain rights, but also certain responsibilities. The same can be said about obtaining a liquor license. Only true responsible owners and operators are able to earn liquor licenses. LB1090 would provide another tool to make sure those owners and operators across the state are behaving responsibly with their businesses and their licenses. The bill allows for local governments to put additional restrictions on a business that has fallen behind in paying its taxes, fees, or assessments. In short, if a business falls into arrears and is not showing a good faith attempt to make good on those debts, the local government can suspend the liquor license of the owner. Now this bill is not meant to

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

be a tool where a local government can suspend the license of a business if they don't like that business or supersede the authority of the Liquor Control Commission. There are safety checks put in place for business owners to make sure the suspensions aren't done willy-nilly and the power is not abused. The first check is that the business owner must be at least 90 days late on their payments. Once the process for suspension starts, the local governing body will alert the Liquor Commission they wish to begin the process and then the suspension proceedings will be posted publicly. The owner would then have an additional 30 days to take care of the money they owed, giving them the opportunity, opportunity to get their act together and potentially pay their past due fees, taxes, or assessments. Now during those 30 days, they can also request a hearing in order to try and explain why they don't believe they owe the taxes, fees, or assessments. Now should they be found that they are in arrears and, and are then suspended, they are still allowed to file an appeal with the Liquor Commission. So there's an opportunity for two different times that they can step forward and appeal. Should all those steps still show the business owner does owe taxes, fees, or assessments, they will be suspended. Now having said all that, I'm very well aware that there are going to be opponents to the bill coming to testify today. I understand the Liquor Control Commission believes were stepping on their toes a bit when it comes to the local governments taking over duties the Commission deals with. But I want to make it clear, I don't think this is so much taking over powers and duties the Commission is in charge of, but rather working hand-in-hand with the Commission. Now as you've heard in my opening, I can see in the bill, if you read the bill, there is built in communication and cooperation between local governments and the agency. I think once LB1090 goes into effect, the opponents will see that this is meant, meant to elbow into any area clearly staked out and it is not a power grab as I've heard others refer to it. So in an era when everyone needs to pay their fair share in order to keep the city, county, and state going smoothly, there needs to be additional protection against the rare bad actor. It's my honest hope that this kind of provision would never have to be used. Now should someone decide that they can skirt the responsibilities in paying their taxes and fees, we need to have something in place to hold them accountable. LB1090 is the fairest way to get that done. I am also bringing amendment-- an amendment that I think cleans up the back end of this process when someone has paid off what they owe and wants to have their suspension lifted. I would hope the committee would attach this to the bill in advance to the floor for debate. With that, I'm going to thank you and take any questions

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

you may have. But I do know that there's at least one testifier here to explain more about why this kind of bill is needed and to give you the concrete evidence that shows you that there is a need for such a bill.

BRIESE: OK. Thank you, Senator Blood.

BLOOD: You're welcome.

BRIESE: Any questions for Senator Blood? Seeing none, thank you. Then we'll move to proponent testimony. And if you're going to testify, it's helpful to come move up to, say, the front row would be a little handier. Good afternoon and welcome.

RYAN WIESEN: Good afternoon. My name is Ryan Wiesen, R-y-a-n, last name W-i-e-s-e-n, and I'm an assistant city attorney for the city of Omaha. The Nebraska Supreme Court has repeatedly affirmed the principle that the right to engage in the activity of the sale of alcoholic liquors in Nebraska is a privilege, not a right. This Legislature long ago passed a law that said that if you want a liquor license, you must be a person of good moral character and reputation. The question before this committee today then is: Is an individual or entity who willfully fails to pay their taxes and who chooses not to follow the law a person of good moral character? We hope that the committee says no today. LB1090 allows a local governing body to suspend the liquor license of an individual or entity who refuses to pay their taxes, fees, or special assessments. And the purpose of this bill is not to shut these businesses down and put them out of business, it is to encourage them to follow the law and to operate responsibly and successfully. If the local governing bodies wanted to shut these businesses down, they could go to the court and get orders permitting them to go into these businesses and seize assets, seize cash out of the register, seize their liquor inventory, seize tables and chairs and glasses and other implements of service and really put them out of business. And we don't want to do that, we want to encourage them to follow the law and operate successfully. And this bill allows us to do that by encourages-- encouraging these businesses who have not paid their taxes to pay what is due and owed and to continue operating once a suspension has, has been lifted. Now I know that there are some opponents who are gonna raise what they believe are some issues with LB1090, including an equal protection argument. And we don't believe that there is an equal protection argument here. Again, this is a privilege, it's not a right. And a parallel that I'll draw to existing state statute is driver licenses. A driver's license

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

or a license to operate a motor vehicle is a privilege, it's not a right. And that privilege can be suspended if you fail to pay child support. Now not everyone who fails to pay child support has a driver's license, not everyone who fails to pay child support is a resident of the state of Nebraska. There's no equal protection argument than when, when those licenses are suspended. Similarly, I know there is concern that the Liquor Control Commission does not want to be seen as being an enforcer or a collector of a local government's taxes or fees. And we're not asking the Liquor Control Commission to collect those fees or taxes, the local governing body would still have to do that on their own, we're just simply encouraging the businesses to operate responsibly and to pay their taxes that are owed and follow the law before that privilege to operate and to sell alcoholic liquors is again reinstated for them. And I'm running out of time, and so I'll open myself up to questions from the committee.

BRIESE: OK. Thank you for your testimony. Any, any questions? Senator Arch.

ARCH: Thank you. Thank you for coming today. Do you see any, do you see any problems with shutting it down while you're trying to collect money? I mean, I, I hate to use the term debtor's prison, but isn't this a little bit like we'll, we'll stop your flow of income until you pay your bills?

RYAN WIESEN: Well, no one's going to jail under this law, so there's no prison.

ARCH: Right, it's not debtor's prison, I get it.

RYAN WIESEN: And I, I don't believe that we are shutting them down immediately. Again, there's the initial requirement that the taxes and fees have to be in arrears 90 days and it would be our expectation of the local governing body would, again, send notices of such delinquency or arrears to the license holder before then. There's the requirement that we give 30-days notice before a suspension occurs during which the license holder could pay that, that-- those taxes or fees before suspension goes into effect. There's also the provision where after those 30 days have passed, the license holder could request a hearing and so that would continue to prolong it and give that license holder more and more time. Additionally, this wouldn't shut down the license holder from operating business fully. If it was a restaurant, the license holder could still sell food and nonalcoholic beverages and could still make money and run its business

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

that way. If it were just an establishment that did not serve food but served drinks, obviously that'd be a little harder only serving nonalcoholic beverages, but it wouldn't shut them down completely. And again, it would be our hope that they choose to follow the law and pay their taxes before we get to that step.

ARCH: Thank you.

BRIESE: Thank you, Senator Arch. Anyone else? Senator Moser.

MOSER: Refresh my memory on the process now. The owner or holder of the license has to get reapproved each year?

RYAN WIESEN: Yes, there is a provision in statute for an automatic renewal that goes into effect unless-- I believe there are three citizen objectors that file timely objections to the renewal, or if the local governing body requests a hearing or a formal process.

MOSER: So the-- so this would give the local governing body something to get leverage 90 days out instead of whatever the balance of their license year might be. I mean, so you're accelerating the efforts to collect by nine months or less.

RYAN WIESEN: I, I don't believe so, because under the current process, the things that a local governing body can consider when it's determining whether or not it should recommend a license or should deny a license, generally have to deal with the character and fitness of the neighborhood, traffic patterns, law enforcement resources.

MOSER: But they have a lot of discretion on what they, what they consider to give a license.

RYAN WIESEN: Certainly the local governing body does.

MOSER: And if you're not paying your tax and those things, wouldn't that be something that would be within their discretion?

RYAN WIESEN: To recommend to the Liquor Control Commission only, the Liquor Control Commission could choose to ignore that recommendation.

MOSER: And if they are down and out already, what's putting more pressure on them gonna do to make them pay if they-- you know, if their business is not successful, you're gonna accelerate their demise? I mean, is it really going to collect any more money?

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

RYAN WIESEN: Well, I think the question is, is do we want to permit individuals who choose to willfully not follow the law to have this privilege to, to sell alcoholic liquors.

MOSER: So you think they've got money, they're making money, but they just refuse to pay their tax?

RYAN WIESEN: That may be a situation in, in certain occurrences, yes.

MOSER: OK. Thank you.

BRIESE: Thank you, Senator Moser. Senator Lowe.

LOWE: Thank you, Chairman Briese. And thank you for coming today. Is this a major problem in Omaha?

RYAN WIESEN: Donna Waller, the city treasurer, is going to speak after me, I believe, and address specific numbers as to how much is owed and what type of taxes that is owed under. But it is an issue that the elected officials, the local governing body, have taken an interest in over the past couple of years, and it has gained some urgency over the past couple of months. So it is something that we feel that is important and that should be addressed.

LOWE: All right. Thank you.

BRIESE: Thank you, Senator Lowe. Senator Brandt.

BRANDT: Thank you, Chairman Briese. Thank you, Mr. Wiesen, for appearing today. Can't you guys just put on a tax lien as provided by current law?

RYAN WIESEN: I'm sorry?

BRANDT: Can't you guys just put a tax lien against the business as is provided by current law?

RYAN WIESEN: There are provisions that allow us to utilize the courts to garnish against certain assets or wages and to assess liens. But again, we would prefer not to take such action that puts the businesses out of business, that seizes all of their assets, seizes their cash, seizes their inventory. We would use this as another tool again to encourage compliance.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BRANDT: But if my business is selling liquor and you take away my ability to sell liquor, you have effectively put me out of business.

RYAN WIESEN: We would hope that the entities would continue to operate selling nonalcoholic products like if it was a gas station, a Kum & Go, there are snacks, nonalcoholic beverages, gas-- gasoline, petroleum products that could-- it could utilize to continue to operate. And again, the goal is to encourage compliance and to use this as a, a way of last resort.

BRANDT: And then my final concern is what they call the slippery slope, so today it's bars, OK, so now let's say dentist or a chiropractor, all of a sudden these guys aren't paying their taxes. Are we gonna go take their license away until they pay their taxes? I guess, I think we have tax law in place that can address the problems being addressed by this bill. You don't agree, the city of Omaha does not agree with that?

RYAN WIESEN: Again, we're looking for another tool to add to our box to encourage these individuals to operate in accordance with the law and hopefully successfully. LB1090, as written, doesn't apply to dentists or other professional licenses, and I don't think there's any intention of attempting to utilize this as a mechanism to go after those types of licenses.

BRANDT: All right. Thank you.

BRIESE: Thank you, Senator Brandt. Anyone else? Any precedent for this in other jurisdictions tying the ability to sell alcohol to paying your taxes?

RYAN WIESEN: I haven't actually looked at the 49 other states to address that. But again, I think if you look at our own laws and the privilege to operate a motor vehicle and, again, the ability to suspend for not paying child support, I think that's a pretty good precedent.

BRANDT: OK. Thank you for your testimony.

RYAN WIESEN: Thank you.

BRIESE: Next proponent testimony? Good afternoon and welcome.

DONNA WALLER: Good afternoon. Senator Briese, members-- excuse me, of the General Affairs Committee, I would like to thank Senator Blood for

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

bringing this bill forward. My name is Donna Waller, D-o-n-n-a W-a-l-l-e-r. I am the treasurer and revenue manager for the city of Omaha. I want to thank you for the opportunity to testify in support of LB1090. The city of Omaha is supportive of alcohol and beer establishments in our city. The concern is not with the industry, but with the difficulty in enforcing the payments of various licenses and fees. Our intent is not to put them out of business, but to make them accountable to their community. Currently, the city has approximately 800 establishments that hold liquor licenses that are required to pay our local taxes and fees. Of the current license holders, there are approximately 4 percent that either don't pay or are delinquent in payment of their taxes and fees. Though this number may not seem high, it is not fair to the other 90 percent of the business that are in compliance with the laws. The city currently has nearly \$300,000 in outstanding debt from liquor license holders. A large percent of this amount has already been turned over to collection agencies so the city will lose 23 percent of that revenue if they are ever paid. This is also unfair to our taxpayers. These amounts include occupation taxes, certificate of assembly, special assessments, and tax liens. The city of Omaha uses the majority of these revenues from these taxes to pay for city's day-to-day operations, including various city administrative and service departments, including police, fire, library, and various other departments. The city of Omaha is not asking the state Liquor Commission to assist in collecting the fees, LB1090 would just give us another tool to assist in the enforcement of collecting what is due. I would be happy to answer any questions that you might have.

BRIESE: Thank you.

DONNA WALLER: You're welcome.

BRIESE: Any questions? Senator Moser.

MOSER: Are there certain types of businesses that are more likely to be in arrears than others?

DONNA WALLER: I would say the majority are probably bars. Not necessarily, not necessarily all small bars, some of them are larger establishments.

MOSER: But their primary business is selling alcohol, you think?

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

DONNA WALLER: They have the food and bars-- I mean, they have also, they have food at them. I would say almost all of them have food.

MOSER: So the convenience stores and grocery stores, those generally are not as often in--

DONNA WALLER: Generally they're-- yeah, generally they're in compliance. Occasionally, they might fall within a few months behind, but they usually come forward when you contact them.

MOSER: But you can use the same leverage at the time of the renewal of the license to try to collect those fees, too, can't you?

DONNA WALLER: We have-- I mean, we contact them before the license fees go-- or the renewals go out. But we've always been on the understanding we don't have a lot of leverage other than to recommend not renewing them, but-- to the state.

MOSER: So this bill gives you more leverage and it shortens the time that you have?

DONNA WALLER: I'm, I'm not sure about the time, but I think it would give us more leverage so that we [INAUDIBLE].

MOSER: Because once a year you have a chance to look at the renewal of the license, correct?

DONNA WALLER: Correct, which we have been doing, yes.

MOSER: OK. Thank you.

DONNA WALLER: Um-hum.

BRIESE: Thank you, Senator Moser. Senator Lowe.

LOWE: Thank you, Chairman Briese. And thank you for coming here today.

DONNA WALLER: Thank you.

LOWE: When a establishment picks up their license, do they not pick it up from the city clerk?

DONNA WALLER: Yes, they do.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

LOWE: Wouldn't that be a good time to hold that license until they pay?

DONNA WALLER: It's my understanding we don't have the right to hold their license if they've paid for their license.

LOWE: OK. So you say there's about 32 of these establishments in Omaha--

DONNA WALLER: Correct.

LOWE: --right now?

DONNA WALLER: And that, that varies from month to month, but that's about an average.

LOWE: That's about 4 percent of 800.

DONNA WALLER: Um-hum.

LOWE: And you say most of these are bars--

DONNA WALLER: Um-hum.

LOWE: --that do sell food.

DONNA WALLER: Correct.

LOWE: If you take the ability to sell alcohol away from these bars, I'm afraid nobody's gonna show up to eat their food.

DONNA WALLER: Well, I guess we do get calls-- I'd just like to say we do get calls from other restaurants and bars that, that ask us questions like why should we pay if they're not paying? And that is a concern for the city that it could come to that, that at some point maybe no one will pay because they see other people not paying. And they're wondering, you know, if there's no enforcement of it, why should anyone pay? So that is a concern, also a concern of the city.

LOWE: All right. Thank you.

DONNA WALLER: Um-hum.

BRIESE: Thank you, Senator Lowe. Anyone else? Senator Hunt.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

HUNT: Did you say something about other businesses-- is there, is there a list of other businesses that are subject to the same tax that are not liquor licensees?

DONNA WALLER: Yes, for some of the other taxes, such as the occupation taxes, yes.

HUNT: OK. Would you be able to get us a list of those businesses?

DONNA WALLER: Um-hum. Yeah, I can.

HUNT: OK. Thank you.

DONNA WALLER: Um-hum.

BRIESE: Thank you, Senator Hunt. Anyone else? So those other businesses that are subject to occupation taxes, etcetera, that are not liquor businesses,--

DONNA WALLER: Um-hum.

BRIESE: --what, what leverage you have on them?

DONNA WALLER: We do the same thing with them, we send the collection.

BRIESE: OK.

DONNA WALLER: We can-- if it's a business that has-- doesn't have like a liquor license, but we can-- there's another area we could take their chairs and, like Ryan was talking about, we can take their-- you know, same type thing to put them out of business. We, we work with them, they're a little more willing, the majority of them that are big restaurants,--

BRIESE: OK. OK.

DONNA WALLER: --so that they end up paying, you know, because they don't want to be put out of business, I guess.

BRIESE: OK. Well, thank you. Thank you for your testimony.

DONNA WALLER: You're welcome. Thank you.

BRIESE: Next proponent? Good afternoon and welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

CHRISTY ABRAHAM: Thank you, Senator Briese and members of the General Affairs Committee. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, here representing the League of Nebraska Municipalities. And we also want to thank Senator Blood for introducing this bill to you. I just want to take just a little bit different path on this bill. As many of you know, the League has a legislative process by which we have communities come to us about legislative concerns that they might like to see turn into bills. And this year, we had several communities come to us saying one of our big concerns is collecting special assessments. Smaller communities, in particular, really struggle with the collection of special assessments. It usually requires them to file a court case in order to collect those special assessments. And that can be pretty expensive and pretty time consuming, particularly for our small communities. So I think we look at LB1090 as just another one of the pieces that we're trying to put together for municipalities, that this is just one more tool for them to collect those special assessments. So we just want to thank Senator Blood for introducing this. And I'm happy to answer any questions that you might have.

BRIESE: Thank you for your testimony. Any, any questions? Senator Moser.

MOSER: When you say special assessments, you're talking like sidewalk districts, those sorts of things?

CHRISTY ABRAHAM: Right, and I'm sorry, I, I should have mentioned that, Senator Moser. You know this, obviously as a former mayor, but, yes, special assessments can take a lot of different forms. It could be a sidewalk district or a street improvement district. It could also be something like a nuisance abatement.

MOSER: Aren't those--

CHRISTY ABRAHAM: You haven't mowed your lawn in two years--

MOSER: Yeah.

CHRISTY ABRAHAM: --and so the city has mowed it for you.

MOSER: Aren't-- wouldn't those be considered a, a lien against the-- well, if the-- if you tried to transfer the property, wouldn't those show up on the, the credit-- the insurance company, the title company, when they do a search, wouldn't those show up?

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

CHRISTY ABRAHAM: Sure.

MOSER: And they can be collected--

CHRISTY ABRAHAM: It can--

MOSER: before the property--

CHRISTY ABRAHAM: I think it--

MOSER: changes hands, right?

CHRISTY ABRAHAM: Yes, if there is a sale of the property, I, I understand there is, there is that opportunity to have those collected. But what we're hearing from municipalities is a lot of times property owners, they can pay their property taxes without having to pay their special assessments. And so the special assessments just kind of sit there and, and are unpaid and then it takes an affirmative step by that city to go after those and get those paid.

MOSER: Do the interest rates accelerate if you don't pay your special assessments on time?

CHRISTY ABRAHAM: Senator Moser, I don't know. That's a great question. I can try to find that out for you. I'm sorry, that I don't know.

MOSER: I think, I think they may-- there may be some penalties and, and higher interest rates. OK, thank you, appreciate that.

CHRISTY ABRAHAM: No, thank you, I appreciate it.

BRIESE: Thank you, Senator Moser. Anyone else? Seeing, seeing no questions, thank you for your testimony.

CHRISTY ABRAHAM: Thanks so much, Senator Briese.

BRIESE: Any other proponents? Good afternoon and welcome.

JON CANNON: Good afternoon, Senator Briese, distinguished members of the General Affairs Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the deputy director of the Nebraska Association of County Officials, otherwise known as NACO, here to testify in support of LB1090. First we want to thank Senator Blood for having brought this legislation. We think this is the kind of-- this gets to fundamental exercise, the fundamental exercise of power by a

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

governmental agency or governmental body. We talk about the power to tax, and that is inherent to counties, cities, and villages. Yet, however, we do not allow them really the power to enforce that in any meaningful way. You have to go to court and that takes time and, and sometimes in some cases can end up costing more than, than the tax-- underlying tax is actually worth. What this does is this allows the interested governing body to protect its interests rather than having this have to be enforced by the Liquor, the Liquor Control Commission. It's another, as other testifiers have said far more eloquently than my meager ability to add or detract can do, this is another tool in the tool box that allows government to exercise the power of government that we expect out of them. And with that, I'd be happy to take any questions. And we would urge you to advance LB1090.

BRIESE: OK, thank you. Any questions? Seeing none, thank you for your testimony.

JON CANNON: Thank you.

BRIESE: Any other proponents? Seeing none, how about any opponents? Good afternoon and welcome.

HOBERT RUPE: Good afternoon, Senator Briese and members of the General Affairs Committee. My name is Hobert Rupe, H-o-b-e-r-t R-u-p-e. I have the privilege of serving as the executive director of the Nebraska Liquor Control Commission. And first of all, I want to say I, I agree wholeheartedly from-- with the city attorney's statements earlier that a liquor license is a privilege, and only good people with good character should have them. The issue with this bill-- there's a couple of them and hopefully I won't go too long on them, or if not, you'll ask me some pointed questions so I can answer them. What's the liquor-related concern with this bill? It's not the, the collection of the occupation tax which is allowed under 53-132; 132 clearly states that, for the privilege of acquiring a liquor license, the local governing body may charge up to twice the amount of the license fee. And the mechanism to protect that is, as Senator Lowe said, we don't send the license to the filing consumer, we send it to the city clerk's office. So if I'm renewing my Class I liquor license this spring, I'd be going there, and if I'm in Omaha, I'd be paying \$250 for the license fee, and Omaha would be charging \$500 for the occupation tax for the liquor license fee. So they're getting their payment on the occupation tax that's germane to the Act right at time of issuance. So if it's not underneath 53-132(4), what tax are we talking about here? Well, it's other taxes which I don't believe are

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

germane to the Liquor Control Act. And I'm not saying I, as one of your principal tax collecting agencies, that people shouldn't pay their taxes. I strongly support paying-- people paying their taxes, but I'm mostly cognizant that the, that the Supreme Court has often said: What are we doing with this-- with a liquor-related action to nonliquor-related activities? I think that's the problem that we're seeing here. You can charge other occupation taxes other than the ones found in 53-132. But those occupation taxes aren't just to the rights of, of selling alcohol, there are other-- there are other ones. The case that is in play here-- and I would recommend you take a look at it-- which sort of goes through the taxation, is Anthony, Inc. v. City of Omaha. That was when La Casa challenged the restaurant tax saying: Hey, you can't charge us with this occupation tax because you're already charging us the max amount under 53-132. The Supreme Court said: Yeah, because this tax isn't for the privilege of serving alcohol, it's food, beverage. Other people other than alcohol licensees have to pay this tax, as well. Therefore, it's not-- didn't fall within the narrow purview of Chapter 53. So in this case here, what you're seeing is, you want-- they want you to, to suspend a license for nonalcohol-related activities. The other question that comes up to play is, what does suspend mean under the Liquor Control Act? The Liquor Control Act gives the power to suspend a license, which means you temporarily stop their selling of alcohol, they can continue their other businesses. However, I'm sorry, I'm at my time, should I continue or not on this one?

BRIESE: We'll have some questions for you.

HOBERT RUPE: All right.

BRIESE: Thank you for your testimony. Any questions? Senator Lowe.

LOWE: Thank you, Chairman Briese. And thank you for being here today. What were you gonna say?

HOBERT RUPE: What I was gonna say was when we suspend-- say somebody comes in for a violation of the Act, fails a compliance check, they'll be suspended for 10 to 20 days, usually it's about 12 days. And that order will go out saying you're suspended from this date until this date. Another provision of the Act allows them to pay off, to, to pay off those days of suspension at \$50 per day for the first offense and \$100 per day for any other subsequent offenses. So we don't suspend somebody just open suspension, because if we were to do that, we would then be in conflict with the other part of the Act which allows them

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

to pay it off, and that goes in accordance with the constitution, local school boards get that fee. So when they're saying suspension here, my question is, to the city is, how-- are you just gonna to say, OK, we're gonna suspend you five days, ten days until-- you know, how are they gonna to do that, because we don't just open suspend licenses because otherwise you've got the other provision of the Act which allows them to elect to pay it off in lieu of a fine-- I mean, in lieu of suspension kicking in. So you know, that was one of the provisions we have on the suspension. The city can already cancel or revoke, subject to appeal if they haven't used it yet.

BRIESE: Thank you, Senator Lowe. Any other questions? Senator Moser.

MOSER: The clerk from Omaha said that they didn't feel that legally they could hold the license for not paying the tax when they pick up their license when it comes up for renewal. What's the-- does the state have a policy on that?

HOBERT RUPE: Well, my thought was they were probably looking at the Anthony, Inc. v. City of Omaha case, which said that the tax-- this tax was not an occupation tax on liquor. I'm not sure my recommendation would be-- you know, there's a provision to collect the tax that the Liquor Control Act assesses. If they don't come in-- if I'm coming in to get my license and I owe \$750 and I'm not paying it, they can hold on to it because they're not paying it, they've got to do that. But if I pay that \$750, can they hold my license for other taxes or other fees, parking tickets? I don't know. You know, I think, you know, that they're going down the slippery slope because people who have to pay this tax aren't just limited to license holders-- liquor license holders, hypothetically. I'm speaking now about the restaurant tax specifically, because that's the case, and that was what was referenced in the Anthony case.

MOSER: OK. Thank you.

BRIESE: Thank you, Senator Moser. Anyone else? The Anthony case, was that decided as a matter of statutory interpretation?

HOBERT RUPE: Yeah, what it was is Supreme Court in 2012 came down with a decision. Anthony, who was doing business as La Casa, challenged the imposition of the city of Omaha's restaurant tax under the theory that, hey, if this is an occupation tax, you can't charge us more

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

because under the Act to get our license, you're already charging us the maximum amount.

BRIESE: OK.

HOBERT RUPE: The Supreme Court said this case-- the statute allows occupation taxes and this occupation tax, because it is not solely applicable to the rights to sell alcohol, does not fall underneath that exception. And so that's my main concern here is now we're starting to go beyond that case and enforce taxes that aren't germane to the Liquor Control Act and using the Liquor Control Act, i.e., the license, as a hammer.

BRIESE: Due process, equal protection, they're fluid concepts. Do you agree with the statement earlier that something like this wouldn't violate any of those constitutional [INAUDIBLE]?

HOBERT RUPE: I would not agree with that.

BRIESE: OK. OK, thank you. Thank you for your testimony. Next opponent testifier? Good afternoon and welcome.

VANESSA SILKE: Good afternoon. My name is Vanessa Silke; that's spelled V-a-n-e-s-s-a S-i-l-k-e. I'm an attorney with Baird Holm and I'm the registered lobbyist for the Nebraska Craft Brewers Guild. As you all are aware, the Guild has over 49 licensees here in the state of Nebraska. They are manufacturers, they're also retail licensees throughout communities all over Nebraska. We're here in opposition to LB1090. And I'll keep my testimony as brief as possible. The short of it is I agree with what Mr. Rupe just testified on behalf of the Liquor Control Commission. My primary concern, from a legal standpoint, is that this is not germane to the Liquor Control Act, there are other mechanisms. And if the municipalities of the state of Nebraska want to have a different tool in the toolbox to make sure that these other types of taxes that are generally applicable to other types of businesses rather than just liquor license holders, you know, we're supportive of that. This bill was brought to our attention very shortly before it was introduced. I appreciate Senator Blood, and her staff, and the representatives of the municipalities who are willing to try and speak through some different ways that we can work on this bill to improve it. But the short of it is, I don't believe this is the correct committee or the correct vehicle. I do see an opportunity and I shared this with the municipality representatives that I've spoken with, that we could certainly sit and meet and address why this

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

is such a concern with liquor licensees in Omaha, in particular, to figure out another way to bring these folks into compliance. As an attorney, I regularly represent licensees before the Liquor Control Commission, also appear before city councils throughout the state of Nebraska to get these licenses in place. It's our goal to make sure our clients are in full compliance. That's one of the, the main tenets of being a member of the Guild is federal, state, and local compliance. So we'd rather work through that cooperatively to work through these legal issues that the Commission has raised and find a better solution that perhaps if legislation is truly necessary, next session might be a better time to do that. So with that, I'll be mindful of my time. Any questions?

BRIESE: Thank you for your testimony. Any questions? Seeing none, thank you for your testimony.

VANESSA SILKE: Thank you.

BRIESE: Next opponent? Good afternoon and welcome.

KEN SCHILZ: Good afternoon, Chairman Briese and members of the General Affairs Committee. My name is Ken Schilz, spelled K-e-n S-c-h-i-l-z, and I'm a registered lobbyist for the Nebraska Licensed Beverage Association, or NLBA. NLBA is a nonprofit trade association representing liquor retailers across the state. We're members of small businesses who provide jobs, hundreds of communities throughout Nebraska, they contribute to the tax rolls and are good stewards and community leaders. Today we are testifying in opposition to LB1090. LB1090 gives unnecessary authority to the municipalities to aid in their collection of local taxes and fees. If someone is going to be granted that authority, we believe-- or to suspend the license, we believe that that should be the Liquor Control Commission and worked through the processes that they have. The Commission is already tasked with the responsibility to suspend liquor licenses as familiar with retailers and their circumstances. If you're a municipality struggling with collection, we believe they should utilize the legal processes already in place to enforce tax collection. Liquor license holders should not be treated differently from other businesses merely because they need a license to operate. Likewise, we should not single out liquor license holders from other industries where businesses or individuals must be licensed. There's a very small number of bad actors, as we've heard, and there are already mechanisms in place to allow cities to collect back taxes and fees from these retailers. For these reasons, NLBA is opposed to LB1090. Thank you for the

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

opportunity to testify and I'd try to answer any questions you might have.

BRIESE: Thank you for your testimony. Any questions? Seeing none, thank you again.

KEN SCHILZ: Thanks.

BRIESE: Any other opposition testimony? Seeing none, any neutral testimony? Seeing none, Senator Blood, you're welcome to close.

BLOOD: Thank you, Chairman Briese. So I want to address very quickly, because I know we have a long agenda today, some of the questions that came up. Senator Brandt specifically asked in reference to putting liens on that business or property, and as Senator Moser knows, when it comes to municipalities especially, quite frankly, and excuse my language, but they get screwed. So we have-- I participated in getting some legislation changed, I want to say 2016, that did make our liens a higher priority, but if somebody is a ne'er-do-well and not paying their taxes and not paying their assessments, it does build up, as Senator Moser brought up. And eventually, if they go to sell or they claim bankruptcy, it is rare that the municipalities actually ever get paid back, very rare. And that's simply because of how state statute and the system works. So one of things we have to remember is that when a city can't pay its bills because they're not collecting the taxes on assessments due them, ultimately it falls on the other taxpayers' shoulders. We talk so much about property taxes and unnecessary taxes, but yet it seems that there's always a deficit in our reasoning in that we don't enforce what we have. So speaking about enforcement, I can tell you that we learned on the city council, when we first were elected to it-- we had like a whole new council when I came on in 2008-- that just because we recommended that somebody not get a license doesn't mean that it was honored once it got to the state. In fact, word was passed down to us to not bother. And that happened multiple times in filing, we just gave up saying, hey, we don't want this person to have a license, because it was never listened to anyway. And I don't-- I'm not sitting here to speak poorly of those people, I'm just telling you that that's how it was. And whatever the reasonings, who knows? But we pretty much ended up with maybe one or two exceptions approving every license that came in front of us after that, because we found that our voices were never heard when we said, no. And so we talk a lot about this not being germane to the Liquor Control Act, but we do know that this is, is a related part of them doing business. And if it's a related part of them doing

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

business, it is necessary for them to pay what is due. As far as the city clerk being involved, they can't hold that license because they don't have the authority to do that. And so they have to willingly give that license to that person who's in arrears, whether they want to do that or not. And we may very well have recommended that that person not get his license renewed. But again, that often falls on deaf ears. So I think there's some miscommunication that, that, of course, we could maybe address-- could address before this hits the floor. But the concern that I have is, and I have to say this on both sides, we're not finding our middle ground, as you heard Vanessa say. We talked to her in advance. We encouraged her to talk to the people carrying the bill. We talked to multiple entities, many who had decided to, to stand down today. But there's middle ground to be had on this. If we expect a business to engage in business, it's their privilege to do so; it is not their right to do so. And to make it sound like, well, we're gonna run them out of business, that's ridiculous, because we're giving them a very long window of time. And again, I, I look at you, former Mayor Moser, because how many instances did you give people after a fire to board up their business or to mow their lawns or take down storm damage or when the raccoons got into the neighborhood house because it was never torn down, year after year after year, before the city could actually do anything? Why do we want to drag this out when we give, give them an opportunity to help themselves? We're not trying to run them out of business. We're giving them a 30-day warning, a 90-day opportunity to get it right. We're giving them two chances to appeal. We're trying to help them succeed while also doing their due diligence as a business owner. So if we have empathy for people who want to have special rules just for them while everybody else is paying their fees, assessments, and taxes, then we can pretty much watch government collapse around us because there will be no money for roads and there will be no money for our first responders, and the list is long. And so instead of being so negative against the bill, I say we either work for middle ground or we understand that there are ne'er-do-wells who need to be held responsible. This is a tool and a toolbox. We're trying to help them, not run them out of town, help them be responsible business owners, help them have options to pay their debts. With that, I thank you for your time today.

BRIESE: Thank you, Senator Blood. Any questions for Senator Blood?
Senator Lowe.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

LOWE: Thank you, Chairman. And thank you, Senator Blood. In this list of businesses, retail--

BLOOD: Can you tell me what page you're referring to, please?

LOWE: Page 5, line 2.

BLOOD: Yes, sir.

LOWE: Retail, craft brewery, microdistillery, or entertainment district license, or a bottle club.

BLOOD: Um-hum.

LOWE: Farm winery is not listed. Can you tell me why?

BLOOD: I cannot tell you why a farm winery is not listed. But of course, as a committee member, if you wanted to add that, you'd have that privilege to do so within an Executive meeting.

LOWE: I'd like to take all these off.

BLOOD: And, and I respect that as you being a former or current bar owner. But at the same token, the same people that complain constantly about property taxes and taxes seem to be absent when we talk about how we actually have to also recruit those taxes that already exist.

LOWE: Can I ask another one?

BRIESE: Go ahead.

LOWE: Thank you. How many businesses are there in Omaha?

BLOOD: I don't live in Omaha, Senator Lowe, so I can't tell you.

LOWE: But the testifiers came from Omaha.

BLOOD: Right. Did you ask them that question?

LOWE: I did not ask them that question.

BLOOD: So I would encourage you to maybe email them or have your staff call them after today's hearing and ask them. I'm sure they'd get you that information.

LOWE: We don't do this for any other business.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BLOOD: Which I think was discussed earlier in the conversation, yes.

LOWE: Yes, it was. Why, why the liquor business?

BLOOD: Again, I think that they are looking for more tools. And in this particular case, it was the businesses that have liquor licenses. I don't think they're picking on those establishments, I think they see an opportunity to recruit from those particular establishments that are not paying their taxes that are due, their assessments, and their fees. And I'm sure that if somebody is smart enough to come up with a way besides liens in the other businesses, we'll see that bill soon, too. But there's a problem that there's a small demographic in every community, as you heard both NACO and the League of Municipalities say, that we can recruit tax dollars that are owed to the cities and the counties. And how do we do that? And this was one of the ideas that came up.

LOWE: So Joe's candy shop, say they don't pay their fees.

BLOOD: So then if I were at the municipal level, which is my experience, and the only one I can speak from besides my state experience, we would put a lien on, on their property. And if, say, that they'd not paid their, their taxes that were due the city, but then they still wouldn't pay them, then we'd do another lien and they still wouldn't pay them, and then we do another lien, and then we-- they still wouldn't pay them. And we'd have to, we'd have to weigh the, the cost of maybe taking them to court versus what they actually owe. And what usually happens is that it's lien after lien after lien and nobody gets paid. And the only people making money are those businesses that are refusing to pay their taxes. And you may say, Senator Lowe, that you don't believe in taxes in general, which I can respect, but the bottom line is that our municipalities, counties, and state run on taxes. And when people don't pay them, then it puts a burden on people who are following the law.

LOWE: So Sam's bar, you take his ability to make money away.

BLOOD: How do we take that when he's not-- I'm sorry, how do we take his ability to not make money away by asking him to pay his taxes that he's legally required to pay, is that what you're saying?

LOWE: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BLOOD: So you're telling me that, as a business, that you must choose profit over paying the taxes that are due to your city, your state, and your county.

LOWE: I'm saying his ability to pay his taxes.

BLOOD: All right. So--

LOWE: Thank you very much.

BLOOD: All right.

BRIESE: Thank you, Senator Lowe. Anyone else? Seeing no other questions, thank you, Senator Blood.

BLOOD: Thank you, Chairman Briese.

BRIESE: And we have one letter in support from Project Extra Mile. And that will conclude our hearing on LB1090. Up next we have LB1163 with Senator Wayne. Good afternoon and welcome, Senator Wayne.

WAYNE: Welcome. Good afternoon, Chairman Briese and the General Affairs Committee. Welcome to Senator Wayne's General Affairs show for the next four hours, maybe five. But this first one is a great bill. This bill was a placeholder bill on an issue that is growing in Nebraska around our three-tier system and offsite storage, temporary offsite storage. The idea behind this bill was to hopefully have the parties come together and reach some type of agreement. They have not. So unless they can come up with an agreement by our priority deadline, I'm pretty sure this bill will not go anywhere this year. So this will be the third bill this year that I asked the committee to hold-- a committee to hold because we were supposed to get agreements and it didn't happen. So there'll be some people behind me who will talk on both sides of the issues, proponent and opponents who-- the committee can understand the issue because this will be an issue that next year and maybe still this year, depending on whether an agreement can be raised, that our body will have to deal with. So with that, I will answer any questions.

BRIESE: Thank you, Senator Wayne. Any questions for Senator Wayne? Seeing none, thank you. Proponent testimony. Good afternoon and welcome.

JUSTIN BRADY: Thank you, Senator Briese and members of the committee. My name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

today as the registered lobbyist for Hy-Vee. Let me start with just a brief history. There's a gentleman behind me that's gonna talk more specifically on the Hy-Vee fulfillment center issue and kind of explain what they're doing. But how we got here was, as many of you know, Hy-Vee started offering where you could buy groceries online. You could have those groceries delivered to your home. You could also have them prepicked from the shelves and you could pull up and have them picked up. As that business model grew, all of a sudden Hy-Vee was having more and more of their own employees in the aisles than there were customers. So Hy-Vee went and built a fulfillment center in La Vista. That fulfillment center handles all the orders within a 50-mile radius. So whether you do pickup or delivery, it comes out of that fulfillment center. Along those same lines, then became the issue of alcohol, beer, wine, and spirits. How does that involve with this? They-- Hy-Vee went to the Liquor Commission and asked the Liquor Commission for a liquor license to be able to do this. The Liquor Commission said at that time they felt they had the authority to grant Hy-Vee the authority to do delivery to homes, or arguably they could deliver to my business across the street if I was having groceries and beer delivered there. But the Liquor Commission said, however, doing pickup at another location was outside their scope of authority. And the reason why is we have a law currently that says that a retail license, which the fulfillment center is, cannot transport and store offsite unless they get permission from the Liquor Commission. Typically when that's happened, it's someone who had a flood or a fire and they'd say, and we're gonna move these six cases and this eight bottles over to Senator Brandt's house for three days while we clean up, clean that up. In this case, obviously, that doesn't happen because you don't know from day to day whether or not someone's gonna order two bottles of wine or a case of beer or a bottle of vodka. So the Liquor Commission said you need to go to the Legislature and get the public policy changed and clarification. That was the reason for this bill. The two sides, as Senator Wayne mentioned, have met multiple times, four or five hours total. The last two hours have been at the request of the Governor to try to get them to come together and say, what can we do? The issue is to still protect the three-tiered system, which Hy-Vee is 100 percent supportive of. They have this bill in Iowa, it passed in Iowa. It was actually a Liquor Commission technical cleanup bill in Iowa. It passed 99-0 in the house and 48-2 in the senate. The issue, though, that happened there was territories and there are positive reasons for beer territories. And I let them explain the positive reasons for those. However, what's happening is we are in a territory in Omaha that's one distributor and, if the beer

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

is being delivered to Lincoln, it is coming into a different beer wholesaler's territory. And how do we address that issue of moving territorial lines? I see I'm out of time and I can try to answer any questions.

BRIESE: Thank you, sir. Any questions? Senator Brandt.

BRANDT: Thank you, Chairman Briese. Thank you, Justin, for appearing today. Why is this so difficult? Can't you fulfill everything but the liquor in Omaha? You're going to a Hy-Vee store in Lincoln, every Hy-Vee store here sells liquor anyway, just put the liquor, the beer in at that store in Lincoln and you've met the law in Nebraska and we don't even have to do this today.

JUSTIN BRADY: Well, I will attempt to answer, I know a representative from Hy-Vee may-- can expand, but twofold: one, when-- say you were to place that order, say you're gonna get some steaks and a bottle of red wine. When you place that order online, it would have to be two separate transactions because one would go to the fulfillment center; and two, the liquor actually has to be purchased then at that other location, let's pick the Hy-Vee at 40th & Old Cheney. So now I've got to ask you, the customer, to do two separate transactions. Then when you pull up to say, I'm gonna pick up my groceries at 4:00, not only do they have to make sure from the Hy-Vee's side the logistical standpoint of saying we've got the groceries coming from Omaha at 4:00 and I've got to coordinate to have somebody run down and grab a bottle of red wine off the shelf and also be standing here at 4:00 waiting with it, to then have two people deliver it to you. It's, it's-- the question's been asked, Senator, yes, but because of having to come out of two houses and who's responsible for what, you couldn't take this person out of this establishment who ironically can deliver to your home right now, they just can't do pickup, and then put them in charge of the liquor at the new location. Because now all of a sudden, you've got someone who's not licensed handling that.

BRANDT: But with the technology today, and, and I want a case of Busch Light,--

JUSTIN BRADY: Um-hum.

BRANDT: --what-- why can't the fulfillment center in La Vista just-- I make one order to La Vista and we're going to Williamsburg Hy-Vee and they say put on a case of Busch Light, why can't-- why do I as a

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

customer have to do two orders? I could do one order and it's incumbent upon the business to fulfill the customer's wishes.

JUSTIN BRADY: I will let-- try to look-- let Hoby, if he will, answer it--

BRANDT: OK.

JUSTIN BRADY: --in the sense that the transaction-- because in essence if that transaction is going to the, to the fulfillment center in La Vista, they can't sell Senator Lowe's liquor in Kearney. So in essence, that's why you have to have the two separate transactions.

BRANDT: All right. Thank you.

JUSTIN BRADY: Um-hum.

BRIESE: Thank you, Senator Brandt. Senator Lowe.

LOWE: Thank you, Chairman Briese. Thank you, Mr. Brady, for being here. Can we reverse that? Can we make the call to the Lincoln Hy-Vee, Lincoln Hy-Vee then places a food order with the fulfillment center so it's routed through the Lincoln Hy-Vee instead of through the fulfillment center?

JUSTIN BRADY: Well, I suppose anything's possible; whether or not that's the smoothest and easiest way for it to happen for the business of Hy-Vee, I can't answer that, Senator.

LOWE: And, and maybe--

JUSTIN BRADY: Um-hum.

BRIESE: Thank you, Senator Lowe. Any other questions?

JUSTIN BRADY: The only thing I'd have is, at least as a proposal for the committee to consider this excludes beer from the Act. It would only then apply to liquor and wine, which they are comfortable moving forward.

BRIESE: OK, very good, appreciate that. Thank you for your testimony. Good afternoon and welcome.

DICK STOFFER: Good afternoon, Mr. Chairman, members of the committee. My name is Dick Stoffer, D-i-c-k S-t-o-f-f-e-r. I'm the director of state government affairs for Hy-Vee, Inc. I'm a 29-year Hy-Vee

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

employee/owner and appreciate the opportunity to try to explain some of the nuances of what we're trying to do here. In simplest form, this allows us to deliver a customer's paid order with alcohol from our licensed fulfillment center to a licensed grocery store for the customer to pick up and drop off-- to pick it up at the drop-off center at the store. Currently under Nebraska law, we deliver from our fulfillment center to a customer's home anywhere in Nebraska, not just-- we could deliver it out west if we wanted to. We choose to do about 50 miles. The attachment is what I presented to the Liquor Control Commission. I'm not gonna waste the time to go through that, but it explains the steps for you to take a look at. It's all pretty colored pictures. You can see how the process works. So I will not waste the time on that at this point. But as you know the retail business is evolving. Customers want and choose many ways to shop for their retail items. And if we don't change and evolve, the customer goes somewhere else. Our current method of handling [INAUDIBLE] commerce deliveries involves a dedicated fulfillment center where, instead of plugging up our local store with online orders, we have built, in larger markets, fulfillment centers. Des Moines was our first one, and we are operating out of that one right now. Now Omaha, and then we just opened up one in Kansas City, Missouri, just started in January. And we're looking at Eagan, Minnesota, for the Twin Cities area. We're experiencing a 60/40 split, 60 percent to the store for pickup because it's free or delivery to home, which makes it more expensive. Our second location-- yeah, I discussed that, so I'll be happy to answer any questions at this time with the committee. Senator Lowe.

LOWE: Thank you, Mr. Stoffer, appreciate it.

DICK STOFFER: Excuse me.

LOWE: Any questions? Senator Blood.

BLOOD: Thank you, Senator Lowe. And thank you for testifying today.

DICK STOFFER: Thank you.

BLOOD: I love your grocery store.

DICK STOFFER: Thank you.

BLOOD: But I have a question for you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

DICK STOFFER: Um-hum.

BLOOD: So I apologize for missing the very beginning, Senator Wayne, but I did read the bill. Can you walk me through some of the issues as to why this bill has been asked to be kept in committee on your end?

DICK STOFFER: Sure. Currently, under Nebraska law-- or the regulation from the Liquor Control Commission will not offer us a license to drop off at a second licensed location. That's the issue.

BLOOD: So are you the only retailer that is asking for the system changes?

DICK STOFFER: Yes.

BLOOD: And I mean this very respectfully,--

DICK STOFFER: Um-hum.

BLOOD: --do you think it's good policy to upend the system for one retailer?

DICK STOFFER: Well, this is a changing market time and we're all trying to figure out how to, to operate, and we're learning as well, too. Our model works where we're at in Iowa, but we follow the law, they-- they've allowed us to do that. We'd like to do more drop offs, it saves us money, and the customers like it as well, too. And this is what it's-- you know, it's customer centered is what we're trying to do, not every retailer does the way we're doing it and--

BLOOD: Yet you have definitely expanded your services--

DICK STOFFER: Yes.

BLOOD: --in the last few years trying to keep up with Amazon.

DICK STOFFER: That's right.

BLOOD: Yeah, no, I get that. So do you think there's middle ground to be had? Have you talked to like-- I mean, like the first ones to come to mind to me are like distributors. Have you met with them at all?

DICK STOFFER: With, with who?

ARCH: The distributors.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

DICK STOFFER: Yes, we have at least four times trying to work this out. We have offered to provide them with name and addresses of the customers to provide them a list with who we're delivering to outside of their territories so that they can work behind the scenes and get paid up on it, and that seems to be from our standpoint a workable thing. To answer the questions earlier about your, Senator Lowe-- well, I, I should talk to you, I'm sorry.

BLOOD: So I'm sorry, I, I need clarification because I--

DICK STOFFER: Yeah.

BLOOD: --don't sell alcohol for a living. So you're saying-- so they can work behind and collect the fees. What do you mean--

DICK STOFFER: So--

BLOOD: --with the distributors, specifically?

DICK STOFFER: Oh, so we would provide the beer distributors with a report, which we are doing currently with pop distributors because they have territories.

BLOOD: Right.

DICK STOFFER: We provide them with a list of customers who we're selling to, for example, in Lincoln. So the Lincoln distributors would know exactly how much-- and we would do it for all of the products not only delivered to the home which we can do now,--

BLOOD: So--

DICK STOFFER: --but also the pickup ones.

BLOOD: OK, I'm, I'm confused then again, just--

DICK STOFFER: Um-hum.

BLOOD: --maybe because I missed the first part of it. So are you going to be delivering also to like bars and--

DICK STOFFER: No.

BLOOD: OK, restaurants?

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

DICK STOFFER: No.

BLOOD: So we're only talking about in--

DICK STOFFER: Prepaid customer orders.

BLOOD: So individual customer orders?

DICK STOFFER: Yes.

BLOOD: And so when you deliver, how old are your delivery people?

DICK STOFFER: How old are they? They're 21 or older. That's in the, the handout.

BLOOD: Can you, can you walk me through the process real quick? And I promise not to ask any more questions after this.

DICK STOFFER: Sure. I've got the--

BLOOD: I mean, I don't want to go slide by slide.

DICK STOFFER: Well, OK.

BLOOD: Yeah, I mean, just kind of give me a brief synopsis.

DICK STOFFER: The customer orders it on-line with their phone or their computer. The order comes in. You can order 24 hours a day-- like 10:00 in the morning, that order is delivered to a store or starts on its way to your home whenever you decide to pick up. So all those items are picked right there and you're, you're credit card is charged at that location.

BLOOD: And how do you verify the age of the person receiving the alcohol?

DICK STOFFER: When-- they, they verify that they are of age. But then when we pick it up or deliver it to the customer, we get their ID and accept it at that time. We scan it with an app that we have.

BLOOD: So you go to deliver the groceries with the alcohol and the babysitter's there, and the babysitter's like, hey, they're not here, then you take the alcohol back?

DICK STOFFER: Yeah, we take the alcohol back.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BLOOD: All right, thank you.

DICK STOFFER: Thank you.

BRIESE: Thank you, Senator Blood. Any other questions? Senator Moser.

MOSER: Well, so your delivery center can deliver food and alcohol to a customer's house now without--

DICK STOFFER: Yes.

MOSER: --a, without a problem?

DICK STOFFER: Without a problem.

MOSER: The problem is delivering it to the other store, then your transshipping alcohol between retailers which is illegal.

DICK STOFFER: That's what they're saying, yes.

MOSER: Yeah, well, I--

DICK STOFFER: We're saying it's a prepaid,--

MOSER: --I don't want you to admit to anything but that's the argument--

DICK STOFFER: --we're saying it's a prepaid customer's order, it has already been itemized, and that store has no idea what they're getting until we pull up with the totes and they're filled up with it, and then we-- they [INAUDIBLE].

MOSER: Why not just fulfill the alcohol from that store rather than hauling it to Des Moines, to Lincoln, or Columbus--

DICK STOFFER: --or from--

MOSER: --or whatever you're going?

DICK STOFFER: Well, we talk a lot in the e-commerce business about frictionless, and the minute you add in another equation in, there's so many opportunities to screw that order up-- excuse my French, but it-- that's, that's what happens. And you get somebody on the other end that doesn't bring that order in and then you say why do I have to give you another credit card? Why is this transaction going here? It's, it's seamless if we can do it all out of the fulfillment center.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

If nobody picks up that order, that same order goes back to the fulfillment center, and the inventory and all of that is kept straight instead of trying to mix it.

MOSER: So there's two problems: delivering alcohol from one-- from the delivery center to a Hy-Vee, let's say, and then also delivering beer from one wholesaler's territory to another wholesaler's territory.

DICK STOFFER: I didn't catch what-- I mean--

MOSER: Well, if you deliver beer to, say, Lincoln and that's a different beer distributor than what is in Omaha.

DICK STOFFER: Right, that is correct.

MOSER: So that's also a problem?

DICK STOFFER: The beer is, the wine and spirits is not a problem because they're statewide.

MOSER: OK. All right, thank you.

DICK STOFFER: Um-hum.

BRIESE: Thank you, Senator Moser. Senator Brandt.

BRANDT: Thank you, Chairman Briese. Thank you for coming to testify today.

DICK STOFFER: You bet.

BRANDT: So let's focus on beer here for a minute. So tell me-- we're gonna fulfill this order in La Vista,--

DICK STOFFER: Yep.

BRANDT: --it's gonna get on a truck, it's gonna drive 45 minutes to Lincoln,--

DICK STOFFER: Yes.

BRANDT: --it's gonna get offloaded at Lincoln at a Hy-Vee that already has liquor and/or beer at it,--

DICK STOFFER: Right.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BRANDT: --and that's, that's the-- what do you call that pickup point, just the pickup center?

DICK STOFFER: Yeah, pickup point.

BRANDT: And it looks like it's fairly substantial, there's actually-- you have bodies in this pickup center, right?

DICK STOFFER: Yes, and there's a-- some of our stores have a kiosk now,--

BRANDT: Great.

DICK STOFFER: --and they just drive up and--

BRANDT: So why can't-- and that's in the parking lot of the Hy-Vee,--

DICK STOFFER: That's right.

BRANDT: --why can't that guy that's at that pickup point walk over to the Hy-Vee grocery store in Lincoln, pick up the needed booze, bring it back there, have it ready to go so when the box comes off the truck from Omaha we've complied with all of Nebraska state law and then we don't need this bill?

DICK STOFFER: That, that sounds simple, but it is a, it is a-- causes friction in the transaction. You'd like to think that it's just-- that order is on the truck with a complete printout, a sales receipt with everything on it, the customer has already paid for it, now you add in something that, OK, don't forget employee, you've got to run into that store and get what? A twelve pack of Busch Light. Oh, OK, and they come out with the wrong thing or-- and then it's another transaction and it, it just complicates our system. And that's, that's not a workable solution to us, why can't we deliver to that drop-off location with the full customer order that we are licensed to be able to do?

BRANDT: All right, thank you.

DICK STOFFER: OK.

BRIESE: Thank you, Senator Brandt. Any other-- Senator Lowe.

LOWE: Thank you, Chairman Briese. And thank you, Mr. Stoffer, for being here and testifying.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

DICK STOFFER: Thank you.

LOWE: I asked the question to Mr. Brady if-- why can't reverse-- we reverse the whole thing and go through the store where the liquor's at and then the transaction automatically goes-- the shipment comes here, the box from the liquor gets put on top of the box from the, the fulfillment center and it's all moved through.

DICK STOFFER: Well, because of the way our e-commerce is set up, it is designed to go to based on zip codes to the Omaha fulfillment center instead-- but the drop off is by zip code. You say, hey, I want to pick it up at the Lincoln on O Street, then that's, that's where it's going to be delivered to. So there's, there's no phone call, it's all done online and that's where it enters, that-- again, continues to mix up those transactions, the store doesn't get credit for that, the fulfillment center does. We're simply trying to provide the service to the customer.

LOWE: And I understand that, and I don't know why anybody would do this because I love going in your stores.

DICK STOFFER: Thank you.

LOWE: But it would just seem like it'd just be a software problem that this could be taken care of, but I understand it, it may not be in your--

DICK STOFFER: Yeah, the software always seems to be a-- an easy answer to a complex problem. When you start handling different transactions out of one simple transaction, problems can happen and we don't want that to happen to the customer. That's it.

BRIESE: Senator, go ahead.

LOWE: Yeah, would, would this not open the door also for Amazon to come in and--

DICK STOFFER: They would have to comply with the same type of, of laws. I don't see that as a problem.

LOWE: But yeah, my, my thought is--

DICK STOFFER: I mean, we're-- we are trying to figure out how to compete against them with e-commerce,--

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

LOWE: Yeah.

DICK STOFFER: --and we're trying to survive, too, and we would appreciate your help.

LOWE: My other thought is put up a big fulfillment center in and put little Cossacks [SIC] in every town and just deliver.

BLOOD: Kiosk-- kiosk, not Cossack.

LOWE: OK.

DICK STOFFER: Kiosk.

LOWE: Little building.

Cossacks are Russian.

BRIESE: Thank you. Thank you, Senator Lowe. Senator Blood.

BLOOD: Thank you, Senator Briese-- Chairman Briese. So I hadn't planned to ask another question, especially since we're planning on holding this bill in, and because Senator Wayne's not gonna let me go home today with his other bills. But I'm hearing this-- so what I do for a living, when I'm actually allowed to work, which is not when we're in session, is I write business plans. And so when I write a business plan and we create a business model, what they're going to do, especially when alcohol is involved, is we can look at state statute. So we plan our business around what state statute says, what we can and cannot do. And so the concern that I have is that your business model, when you decided that you'd like to do this, obviously isn't under state statute, which is why you're trying to change it. But as we change what you're asking us to do and the reasons that you're asking us to do, I, I have to kind of agree with Senator Lowe. I mean, what you're doing is you're talking about a software issue, and I know that that is not as easy as people think it is.

DICK STOFFER: Right.

BLOOD: But you know, maybe one less Super Bowl commercial and more money towards the software or-- you have great commercials, but I am concerned because this is a Pandora's box and we certainly want you to be successful in Nebraska and we love you here in Nebraska. And I am one of the people who wants to use the, the click list from Bakers or

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

the online from Hy-Vee, because on my way home from Lincoln, I can drive through and have it loaded into my car--

DICK STOFFER: That's right.

BLOOD: --or delivered to my house, because I have to feed the men in my house. But I, I am concerned when we create policy and try and change the business model for one business, because I think it will open the door. And my concern is, is truly that I hope that you can work with all the parties involved. And I know for myself how hard that can be when it comes to alcohol. And you guys can have your come-to-Jesus moment and sing Kumbaya and we can get a better bill.

DICK STOFFER: OK. Thank you.

BRIESE: Was there a question there?

BLOOD: Yeah, it was.

BRIESE: OK.

BLOOD: So--

DICK STOFFER: Repeat the question.

MOSER: Don't ask her to repeat the question.

BLOOD: The question was the business model question, so.

BRIESE: Thank you, Senator Blood. Anyone else? Seeing no one, thank you for your testimony.

DICK STOFFER: Thank you, Senator.

BRIESE: Next proponent? Seeing none, any-- whoops-- any opponents? Good afternoon.

HOBERT RUPE: Good afternoon, Chairman Briese and--

BRIESE: Welcome again.

HOBERT RUPE: --members of the General Affairs Committee. My name is Hobert Rupe, H-o-b-e-r-t R-u-p-e. I am the executive director of the Nebraska Liquor Control Commission and we are, at this point, in opposition to this bill. A couple of reasons why because this was-- we sort of debated internally neutral or opposition because we felt sort

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

of bad, we told Hy-Vee to come to the Legislature and they did, and then we're looking at this. And so there's two main objections we have to the bill, as currently drafted: one's technical; and then one is sort of more philosophical. The technical one is we're not really sure we like the, the definition currently of the common ownership, 80 percent, because anytime you're gonna open up the, the door and let people move from one retail location to another retail location, the only time that's allowed currently under the Act is where a beer manufacturer, a Class L craft brewery can sell-- can ship their own products to their own 100 percent owned-- in common, total owned draft houses. That's the only time we allow that to happen. And so by not having a 100 percent here, we're getting a little bit concerned. I know where they came from, they were using a tax code provision with 80 percent. So that's the technical issue. The other issue we have is sort of more philosophical. You know, this is a strange position for the Commission to be in because we're between two of our most respected members of the industry. We're behind the beer wholesalers who we work very closely with, on enforcement and on tax collection, and then, and then also one of our best retailers overall, Hy-Vee. So it's sort of in a weird position to be on one side or the other here, but we're looking at it primarily from a philosophical standpoint. We're lucky in a lot of ways, and I would like to take credit, but I can't because it actually was B.H. before Hobie. We have a delivery rule which has been in place for years and what it allows is for a consumer to order alcoholic beverages from a retail licensee who can sell offsite, so either a D, a B, or a C so long as it's prepaid, and they have to then make sure that they're 21 at ordering and at the time. You know, traditionally that in the past was used by if you're gonna be doing a big graduation party for college and you're gonna call and preorder it and you'll have it, you'll go pick it up or they'll deliver it to you, the retailer, either way; it's been allowed. The other-- and so we've already allowed a delivery to the home rule. Where this is different is you absolutely hit earlier on is this is sort of moving it from one retail location to another retail location, albeit, according to this bill, temporarily-- 24 hours. The issue, of course, there is the chain of custody, you know, make sure it's tight, make sure it's not going outside, because the key thing that we're looking at is when alcohol shows up on a retail location, there's paperwork that follows it, the paperwork follows it because so we make sure that the excise tax is paid on it so they're not buying it from somewhere else out of state and not paying state excise tax, making sure that they're not moving it around from people who shouldn't be able to buy the alcohol tax. So anytime you're moving it

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

from, you know, from one point to another point, we think there's got to be a lot of safeguards. The other concern on this, on this one here is right now the bill-- you know, if the model where they would stop and pick up, they're still in their car, technically they're supposed to get out of their car. I'm not sure if they're making them, we're telling them they have to because we've got an old statute, not a rule, a statute that says you can't sell to somebody inside a moving vehicle unless they have a handicap sticker. It's an old bill that we-- that Nebraska came up with when we didn't want to have the drive-thru liquor stores right when they popped up in Council Bluffs back in the 70s.

BRIESE: OK.

HOBERT RUPE: So there's a couple of problems with this bill, but I'd be happy to answer any technical questions about anything else.

BRIESE: Thank you for your testimony. Any questions? Seeing none, thank you for your testimony.

HOBERT RUPE: I'll take it. Thank you very much for your attention.

BRIESE: Yeah. Any other opposition testimony? Good afternoon and welcome.

DAVID TIMS: Thank you. Good afternoon, Chairman Briese and members of the General Affairs Committee. My name is David Tims, D-a-v-i-d T-i-m-s. I'm the president and general manager of Premier Midwest Beverage Company, a 44-year-old Nebraska company. I appear before you today on behalf of, and as chairman of, the Associated Beverage Distributors of Nebraska, in opposition to LB1163. In the nature of time, I'm gonna jump ahead in my written testimony. As you know, small family-owned, brick and mortar, independent retailers in Nebraska are struggling to survive in a challenging economic environment, particularly in rural Nebraska. They're forced to compete against regional and national chains with resources that dwarf their own. These large chains already enjoy substantial economic benefits as a result of volume discounts from suppliers, lower costs due to economies of scale, and ability to cross market their food, alcohol, or gasoline sales. LB1163 would exempt these entities from certain Nebraska liquor regulations and unfairly tip the competitive playing field even further in favor of these regional national giants to the great detriment of family-owned businesses that constitute a mainstay of their local communities and local economies. Respectfully, I would

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

submit that it is not the proper role of the Legislature to pick winners and losers on a free market, but that is precisely what this bill would do. Although this bill is being proposed at the request of Hy-Vee, every grocery chain, convenience chain, or liquor store chain could take advantage of the unfair competitive benefits it offers. If passed, each one of these large chains could build or lease a fulfillment center, accept Internet or phone orders from anywhere in the state, fill the order, and then deliver the food and alcohol order to a separately licensed satellite retail location for pick up by a consumer. This constitutes an illegal retail-to-retail transfer under current law. Please note that a fulfillment center would not be needed and current super centers could capably simply transfer product to any other commonly owned location. Because these large chains could be accepting orders from anywhere in the state of Nebraska, they could be able to take advantage of huge quantity discounts. These large chains would then have the ability to deeply discount alcohol or even sell at a low cost as a loss leader. This cannot only drive a great many family-owned retailers across the state out of business, it could also have an impact on consumption patterns and abuse in the state. I, I passed out an article from the Washington Monthly which details this phenomenon in the United Kingdom where four retail chains dominate over 80 percent of all alcohol sales, where the industry has been largely deregulated, and where, as a result, the UK has struggled with an epidemic of alcoholism. Under current law, these retailers can process Internet orders and deliver the order directly to the consumer. In addition, they can process a food and alcohol order, fill the order from the inventory at fulfillment center, and deliver that for [INAUDIBLE] retail location. And I understand I'm out of time, so I will be willing to answer any questions.

BRIESE: Thank you. Thank you for your testimony. Any questions?
Senator Brandt.

BRANDT: Thank you, Chairman Briese. Thank you, Mr. Tims, for testifying today. And this is just a little bit of a hypothetical question. I find it interesting that, that you see this opening the door to a lot of other businesses, and let's say they all have fulfillment centers in Omaha and they go to outstate Nebraska. There is no legislation that dictates what the pickup center looks like-- I mean, if you drove the truck from Omaha, parked in a parking lot in Lincoln, is that now the pickup center out of the back of that truck?

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

DAVID TIMS: From what you're suggesting, it could be, I believe, and, you know, legislation could be modified to that.

BRANDT: All right, thank you.

BRIESE: Thank you, Senator Brandt. Any other questions? Seeing none, thank you for your testimony. Any other opposition testimony? Good afternoon and welcome.

MARY KATE SCHEINOST: Good afternoon, Chairman Briese and members of the General Affairs Committee. My name is Mary Kate Scheinost, Mary Kate spelled capital M lowercase a-r-y, capital K lowercase a-t-e, Scheinost, S-c-h-e-i-n-o-s-t. I'm the general manager of High Plains Budweiser in Scottsbluff, Nebraska, and I'm the second generation of my family-owned small business. I literally grew up in the beer business and watched my parents grow our company from six employees to 24 full-time employees servicing 262 retailers across 11 counties in the Nebraska Panhandle. I traveled over 400 miles to testify before you today because I am deeply concerned about this bill that gives mega retailers wholesale privileges to warehouse alcohol. The one liner for the bill, and I quote, is to provide for transportation and storage of alcohol by retail licensees for customer pickup is a misnomer and does not accurately describe what the bill is actually trying to accomplish. Our laws in the state of Nebraska currently allow retailers to accept online orders from consumers and deliver alcoholic beverages to the consumer at their homes or allow for pick up at the retail location. My local Walmart in Scottsbluff is currently taking online alcohol orders, filling the order at the local store, not at a central warehouse, and allowing the customer to pick up the alcohol at the retail store, unlike where this bill would allow a mega retailer to receive and store alcohol at a central warehouse and transfer that alcohol to another retail location. This retail-to-retail transfer of alcohol muddies the waters and decreases the transparency needed in the regulation of alcohol. Let's face it, alcohol is an intoxicating substance that requires certain controls for the safety of the public where, for example, bananas or pop are not intoxicating substances and do not require the same controls. That's why we have the three-tier system for alcohol and, and not for bananas. The three-tier system provides the transparency needed for the proper regulation of alcohol and to ensure consumer safety. Speaking of transparency, in our business, we sell not only beer, liquor, and wine and nonalcohol beverages to our retailers. When we do that, we have to produce three separate invoices for our retailers. We

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

all know that Hy-Vee is driving the bus behind this bill. And frankly, I don't have a Hy-Vee in my market, but that doesn't matter, because if you give this privilege of retail transfer and storage to one, you give this privilege to all mega retailers, including Walmart and Amazon. If this bill is passed, there's immediate threat to our rural communities, including the Nebraska Panhandle. The bill would give mega retailers an unfair competitive advantage over our locally-owned, independent mom-and-pop small businesses that are the infrastructure and backbone of our rural communities. After all, it takes people and brick and mortar buildings to sustain a community. And if you have a central warehouse that is shipping alcohol into a community, eventually the small independent retailers will go out of business and buildings will be abandoned, not to mention decreased property value and tax revenue. And I see that I'm out of time, so thank you for your time.

BRIESE: Well, thank you for your testimony.

MARY KATE SCHEINOST: Yes.

BRIESE: Any questions? Senator Blood.

BLOOD: Thank you, Senator Briese. So you're pretty young, so this may not be the question for you. So do you know once the Internet came around and started selling alcohol, what kind of effect that had on distributorships as far as income?

MARY KATE SCHEINOST: You know, that's not a, a question I do know the answer to. I know in rural Nebraska, you know, we don't-- that-- that's not a problem of concern, but I'm sure my colleagues can speak to that better, and we can have Joe Kohout follow up with you on that.

BLOOD: But one, one of my concerns is, you know, the, the state of Nebraska and a lot of your chain stores, they acted not soon enough when it came to Internet sales,--

MARY KATE SCHEINOST: Um-hum.

BLOOD: --and I saw so many people and organizations suffering because of it. I mean, we just recently started actually recruiting taxes from them. But we've been recruiting taxes from you guys forever, right?

MARY KATE SCHEINOST: Exactly, um-hum.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BLOOD: So I heard that. And so I'm always kind of curious to know the history and how it affects you because I believe in having an even playing field, and that's one of my concerns with this bill. So I'm sorry, you don't know that question, that just means you're much younger than me. So thank you.

BRIESE: Thank you, Senator Blood. Senator Lowe.

LOWE: Thank you, Chairman Briese. And, Mary Kate, thanks for being here today. How large is your district-- or is your territory?

MARY KATE SCHEINOST: So we're 11 counties, so we're pretty much the Nebraska Panhandle. We're about almost 14,000 square miles.

LOWE: All right. I, I know you're gonna travel 1,600 miles within the state of Nebraska within a week, I wanted to just have a question just,--

MARY KATE SCHEINOST: Um-hum.

LOWE: --just so you felt good for being here.

BRIESE: Thank you, Senator Lowe. Senator Moser.

MOSER: So you are limited in delivery of beer to just the counties that are in your territory and they're all in Nebraska I take it?

MARY KATE SCHEINOST: Yes.

MOSER: OK.

MARY KATE SCHEINOST: Um-hum.

MOSER: OK. And I don't know if the question is the right one for you, if you're the right person to answer the question, but I believe that one of the other testifiers said that Iowa's allowing transfer of alcohol from distribution center to another retailer, so their law is slightly different than ours?

MARY KATE SCHEINOST: Yes.

MOSER: I, I can see by the nod that that must be right. Thank you, appreciate that.

BRIESE: Thank you, Senator Moser. Senator Brandt.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BRANDT: Thank you, Chairman Briese. Thank you, Mary Kate, for, for testifying today. And this is sort of a general question that covers both liquor and beer. Is there any possibility that out-of-state liquor could bypass Nebraska through this system coming in from Colorado or Wyoming or any of the other states and defeat the system or we would always have something in place to, to keep that from happening?

MARY KATE SCHEINOST: I guess I'm not as familiar with those liquor laws--

BRANDT: OK.

MARY KATE SCHEINOST: --as-- and, and so, you know, that's definitely something we can follow up on.

BRANDT: All right, thank you.

BRIESE: Thank you, Senator Brandt. Anyone else? Seeing no other questions, thank you for traveling 400 miles to see us.

MARY KATE SCHEINOST: Thank you.

BRIESE: Next opponent? Good afternoon and welcome.

JIM GILLICK: Good afternoon, Chairman Briese and members of the General Affairs Committee. My name's Jim Gillick, J-i-m G-i-l-l-i-c-k. I'm the equity manager and director of safety of Quality Brands. And I have been in the beer business over 50 years, almost 20 here in Nebraska. Quality Brands is a family-owned business, started by my brother, Tony. Alongside him, I work with my two sisters, my nephew, Anthony, and my niece, Abbey. As you can tell, it's a family business for Nebraska. I appear to-- I appear before you today as a member of the executive board on the beer wholesalers to oppose LB1163. Allowing retail-to-retail transfers and storage is problematic because there is no longer any account for where the product is held in the taxation. This is the tip of the iceberg and opens Pandora's box. The next step will be allowing retailers to ship directly from corporate headquarters located outside the state, and if that happens, all Nebraska loses. I oppose 11B63 [SIC], and I'm happy to answer any questions.

BRIESE: Thank you, sir. Any questions? Seeing none-- oh, excuse me, Senator Brandt.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BRANDT: Thank you, Chairman Briese. Real quick, so the question I asked to the previous testifier was about bringing in out-of-state liquor. Do you, do you foresee the new law as a way to circumvent Nebraska liquor--

JIM GILLICK: That, that could be a crack in the armor that some of the bigger-- the Amazon's, Costco's would go to court and challenge the state liquor law, right Hobie? We don't know for sure, but it would open up Pandora's box or crack the ice. That's an opportunity for them to get their foot in more. Around the country, they're trying to do that all over,--

BRANDT: All right.

JIM GILLICK: --the, the large--

BRANDT: Thank you.

JIM GILLICK: --mega companies.

BRIESE: Thank you, Senator Brandt. Anyone else? Seeing no further questions, thank you for your testimony.

JIM GILLICK: Thank you.

BRIESE: Any other opposition testimony? Seeing none, any neutral testimony? Good afternoon and welcome again.

VANESSA SILKE: Good afternoon, members of the General Affairs Committee. My name is Vanessa Silke, that's spelled V-a-n-e-s-s-a S-i-l-k-e. I'm an attorney with Baird Holm and the registered lobbyist for the Nebraska Craft Brewers Guild. I'll keep my testimony short. I echo everything that every testifier raised on both sides of this. The Guild's members are primarily concerned with making sure that as manufacturers here in the state of Nebraska, that their investments in making sure that their products are available to these new and developing consumer markets, that they're gonna continue to have that access. And right now they don't. As you heard from the Hy-Vee testifiers, this is a big deal for any of you who have the Aisles Online app. You probably notice that beer is not an option. So for that reason, I also spoke with, with Justin Brady about this, we absolutely oppose the amendment that was circulated that simply takes beer out. That would mean that Nebraska Craft Brewers would not be a part of this new and developing market, so we don't want that. What we do want are the parties-- the primary parties to come to an agreement,

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

and to the extent it involves any of the contracts that wholesalers have with my members, we want to be involved in that conversation. I think everybody agrees that this is the future, we've got to find a way forward, but there are some issues that we need to address. And primarily here in Nebraska, it would be those wholesaler distribution territory lines that are dictated largely by the franchise laws that go far beyond the scope of this statute-- or this bill that was brought before the committee. The other item I want to address is, Senator Brandt, your question, right now, under current law, if you manufacture beer outside the state of Nebraska and you want to have it sold here to consumers, you have to have a shipper's license. And a condition on that shipper's license is that you are sending your beer to a wholesaler registered to do business in the state of Nebraska. And I understand that general concern of what would these outside ones, outside retailers do to get their beer into Nebraska and be able to transfer that and bypass that tier. I think there's ways to fix that, you know, in the bill or, or in a future bill, if it's developed, but it-- more than anything it's the competitive advantage, the volume-based pricing that is the bigger threat that we see, more so than skipping the tier. But again, it's a conversation we need to continue. So with that, I'm happy to answer any questions that you may have.

BRIESE: Thank you. Any questions? Seeing none, thank you for your testimony.

VANESSA SILKE: Thank you.

BRIESE: Any other neutral testimony? With that, Senator Wayne, you're welcome to close. As far as letters for the record, we have none. Welcome again, Senator Wayne.

WAYNE: Thank you. Well, for a bill that I really don't want to go anywhere, there was a lot of questions and answering and a pretty long hearing. Can't imagine what's gonna happen on the next three bills. Again for the record, for people who might read this later, the issue is we have the first ten days to introduce bills and we're a part-time Legislature and things arise when we're not in session that they need laws to deal with. And so this was a placeholder bill to try to bring around some of the agreements. I know there is an amendment that shows part of the agreement between some of the parties. But when this bill was introduced, I told both sides that I would not move forward with this bill unless there was some kind of agreement or close to an agreement we could come to. So I would ask this bill to be held and

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

hopefully we can solve it. And if not, maybe they'll have an agreement before the priority deadline and we might be able to get something done on it. But I just want to make that clear for the record, for somebody ten years from now asking why I didn't move this bill forward.

BRIESE: OK, thank, thank you, Senator. Any questions? Seeing none, thank you for joining us here today. And with that, we will close our hearing on LB1163, and we will open the hearing on LB971. Senator Wayne, you are welcome to begin here shortly.

WAYNE: Thank you, Chairman Briese and members of the General Affairs Committee. These next three bills kind of go together, and I'll briefly talk about the overall concept in all of them for the record so it's clear, but the idea is I'm giving the committee and our body different options of how they want to move forward with property tax relief and what I would say better funding of our education system. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. And I will come back to that multiple times at each of these bills' introductions. LB90-- LB971 redefines what is lottery in the statute to include sports betting. This will permit wagers being made on authorized sporting events to be determined by the Department of Revenue, which will not include high school or youth sports. The fact of the matter is Nebraskans are already doing this. There are three casinos that sit right across the river of my district. And the reason why I said my district is important because, in the last two to three years, you no longer have to cross the river to go to the casino; there is a casino in Carter Lake. More importantly when we talk about sports betting, you literally do not have to cross the river to sports bet. Once you register at a casino, which is done in 2021-- January of 2021, you can just-- after that you'll be able to just download the app and register from anywhere, but you have to have a face-to-face registration. You can place bets from Carter Lake. And if anybody doesn't believe me, on Saturdays, during football season in college football or Sundays, you have to look no farther than the bridge and see people walk across the line, place their bets, and walk back across the line on the Pedestrian Bridge. Gambling happens. Sports betting happens. The fact of the matter is Ameristar, Horseshoe, and Harrah's all have over \$26 million in bets for athletic events since August 15. It is important to note that a significant amount of this is done on Nebraska athletics. Why is that important? Because in the Omaha World-Herald in September, the general manager at the, at the

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

Harrah's and Horseshoe Casino was quoted saying: Far and away, the major of sports betting on his properties is Husker Football, which 80 percent was from Nebraska. So the fact of the matter is in our constitution, we talk about gambling and we set aside money to deal with the so-called social issues. Yet, we have not received any revenue to deal with that. So let's look at the state of Iowa. And I want to keep this in perspective, the state of Iowa does a 6.75 percent sales tax. Since September, they have \$1.9 million in revenue that they brought in for the state. What I have shared with many of you all on this committee is I'm looking from anywhere, anywhere from 10 percent to a 20 percent sales tax, so that would be three times the month-- the amount that is currently being brought in for those four months, which if you go over to the casino again, you'll see 80 percent of them are Nebraska plates. For those keeping tally, that's over \$1.3 million just on sports betting generated last quarter in 2019. Our gambling laws are outdated. The fact of the matter is they're counterproductive. The other fact of the matter is 75 percent of Nebraskans-- so let me back up, 90 percent of Nebraskans live 120 miles away from a casino, that's two hours, 85 percent live 100-- and I'm sorry, a hour and a half away. In roughly an hour, about 75 percent of Nebraskans live an hour to an hour and fifteen minutes away from a casino. It's happening. We as a body have struggled for the last four years that I've been down here to find revenue streams. And so today with these three bills, we are-- as a committee can decide what is the best way to move forward through a constitutional amendment, through changing a definition of lottery, or to what I believe is the best option is to say that it's not gambling at all and we'll talk about that at that time. But the reality is, the reason I did the lottery is lottery has the biggest or the least amount of chance of winning. That's known fact. So if we're gonna take the biggest risk that-- which means \$1 or \$2 and, you know, you pretty much won't win, then we can change the definition to something that is more palatable for our people to make sure that we can get the revenues off of it. And I'm sure there'll be a lot of questions and we can have more conversations over these next bills, but that's where it's-- the idea of these three bills come from is that you no longer have to just leave the state, you can just come to my district and go to Carter Lake and place a bet. With that, I'll answer any questions.

BRIESE: Thank you, Senator Wayne. Any questions for Senator Wayne?
Senator Brandt.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BRANDT: Thank you, Chairman Briese. Senator Wayne, could you explain to me if this passes, how this would work? Would we set up a casino in Nebraska or we're doing this through our phones, how does this work?

WAYNE: Well, the-- actually, the Department would be able to come up with rules and regs on how this would be administered. The only limitation I have is that they cannot involve sports, sports wagering on youth or high school sports.

BRANDT: All right, thank you.

BRIESE: Thank you, Senator Brandt. Anyone else? Seeing no other questions, thank you for being here.

WAYNE: Thank you.

BRIESE: Now we'll open it up to proponent testimony. Seeing none, we'll open it up to opponent testimony. And if you're gonna testify, feel free to move forward or be close to the front anyway to be helpful. Thank you. Good afternoon and welcome.

TOM ASHBY: Tom Ashby, T-o-m A-s-h-b-y. Thank you for your public service. I'm testifying as a volunteer for Good News Jail and Prison Ministry. I've volunteered since 2002 teaching inmates at the Douglas County Jail for the ministry, and I chair the local Good News Jail and Prison Ministry board. Although I'm testifying as a volunteer and representing Good News Jail and Prison Ministry and not any law firm or client or anything like that, it's purely without any compensation, I have been a bankruptcy lawyer since 1984 and lectured many times on bankruptcy topics for the Nebraska State Bar Association. I gave the clerk some other information about my background. I'd urge you to vote no on LB971. I do agree with Senator Wayne that the three bills you're-- being considered, including the legislative resolution, are related. So I'd urge a no vote against LB971, LB990, and LR295. Talk about proximity and then let some inmates speak to you in their, in their words. Proximity to gambling matters, I see this as a bankruptcy lawyer. If a state expands gambling, more people in that state try it. Some of them will become problem gamblers and you increase problem gambling as a result. I was at the Douglas County Jail volunteering last Friday and I received 3 copies of a letter signed by a total of 19 inmates. I'll read you some excerpts, but the clerk has the full copy of the letter and I encourage you to, to look at that, please. Quote, sports gambling can be tempting and addictive, especially to young people. Those of us who had gambling addictions know that the

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

last thing Nebraska needs is another temptation and also leads to ugly pressure on young people, especially young men playing sports to potentially shave points or throw games. Some might argue the legislative resolution only allows for a statewide vote to remove constitutional restrictions and doesn't itself expand gambling. But profamily groups would have to spend hundreds and probably thousands of hours resisting big money that would seek to promote expanded gambling in a statewide vote. Every hour a person who cares about gambling addicts and broken families spends combating a statewide vote is an hour that person cannot spend serving in a homeless shelter, teaching children about good lifestyle habits and so forth. They say, quote, Senator Briese, we believe you and others on your committee are concerned about reducing crime and also dealing with prison overcrowding. Each of us has had a negative experience with gambling. And the last sentence I'll read: We now believe significant gambling can contribute to a bad lifestyle and in some people even a criminal lifestyle. And they conclude, please vote no on the three legislative measures. Thank you very much, open for any questions.

BRIESE: You bet. Thank you for your testimony. Senator Blood.

BLOOD: Thank you, Chairman Briese. And I'm sorry, I didn't catch your name, what was it?

TOM ASHBY: Tom Ashby.

BLOOD: Ashby?

TOM ASHBY: Yes.

BLOOD: All right.

TOM ASHBY: Thanks.

BLOOD: Thank you for testifying, Mr. Ashby. So I just have two really general questions and I'm sincerely interested in your opinion on it.

TOM ASHBY: Sure.

BLOOD: So are you familiar with how much we already spend out of lottery money to help those with gambling addictions?

TOM ASHBY: Did you say how much is spent--

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BLOOD: How much?

TOM ASHBY: --out of lottery money?

BLOOD: Right.

TOM ASHBY: I'm not familiar with the statistics on that, but the concept is that-- it's a percentage concept, as I understand it, so if you are taxing some of the gambling revenues, by definition that's gonna be way less than 100 percent of the revenue and, therefore, by definition way less than 100 percent of the gambling-- the amounts gambled will be spent helping the problem gambling assistance. Sorry, I'm not skilled in that area, but--

BLOOD: OK. No, no, no worries.

TOM ASHBY: --I appreciate your question.

BLOOD: So it leads to my-- the rest of my question. So we spend a substantial amount, a substantial amount, I believe it was like over a million is what we finally approved to help people who do go across the bridge and gamble and the vast majority are people that are, are leaving our state that we're paying for the gambling addiction. And the question I would have for you, not being familiar with that part of it, is that knowing that we already have specific types of, of games of skill, that for some reason Nebraska considers as gambling, but they're really just games of skill, not games of chance like a lottery-- like a slot machine. Knowing that they already exist, being against gambling, wouldn't it be better if we were regulating it and, and, and making sure that we knew what was going on, that we would want it to come through our state so we could keep an eye on it? Wouldn't that help our victims?

TOM ASHBY: I'd like to speak to that, that's an important topic, especially for a legislative body. I'll speak to that in three ways: one is we just have a disagreement I guess, Senator, respectfully a disagreement. I think the closer you bring these things to Nebraskans, the more you'll get Carter Lake. In fact, in a way, we've seen with Senator Wayne-- in, in, in my opinion, just my opinion, speak to that himself by saying now that they've got it in Carter Lake, we're seeing more and more of it. I think if you have it statewide, you'll see more and more of it. The second thing I want to say is, as a taxpayer and as a Legislature, when you put your head on your pillow at night after this is-- if this gets passed and we have the state promoting sports

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

gambling, not only will you be offering it, you will be promoting it, you'll be advertising like you hear the current ads on the lottery for it. And then last, Senator, I'm just gonna speak as a parent, some of us are parents. My wife and I have two adult children. And I know as a parent, it's much easier to tell a young person we are not in favor of gambling, we're in favor of more productive uses of time and work ethic and so forth. It's easier to make that comment if the Legislature hasn't passed a law saying, we think it's OK, we think it's a good thing, and if the state isn't advertising for it. And again, I apologize for being less familiar with your specifics, but I appreciate the question.

BLOOD: So-- yeah, but the question was not answered. So the question, again, that a lot of the parts that already exist, why would we not want to regulate so we know what's going on so we can protect the victims?

TOM ASHBY: Oh, yeah.

BLOOD: So you're saying that it doesn't matter, we shouldn't regulate either because then we're supporting it?

TOM ASHBY: No, no, I, I apologize. If it's illegal, then if it's not being regulated for some reason, that would seem to me to be an enforcement problem. As, as I understand it, it's illegal now. It can't be done now in Nebraska, and that's why there's a desire to change the laws. Now it could be that the laws against it are not being enforced, but that's the understanding I had that it was illegal and could in theory be enforced against.

BLOOD: So one last question, and I ask everybody this question, so Catholic Church and bingo, is that gambling?

TOM ASHBY: I will think about that and get back to you off-line if that's appropriate. I have not considered that question before.

BLOOD: So pickle cards, gambling?

TOM ASHBY: I've never played a pickle card, but I think it is.

BLOOD: Keno, gambling?

TOM ASHBY: It is. And that's one thing where isn't it interesting how, if we speed up keno so it looks more and more like slot machines, the addictive qualities of that form of gambling can be dangerous. I think

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

it is allowable right now, but they do put a limit, I think, on the frequency of the draws.

BLOOD: So we know that anything that is a game of chance by federal definition is gambling. Correct?

TOM ASHBY: I'm here on behalf primarily of the Good News Jail and Prison Ministry--

BLOOD: OK.

TOM ASHBY: --looking at the lifestyle devastation that results. I'm not-- even though I'm a lawyer, that's a fair question, I'm not familiar with the federal definition.

BLOOD: And I was basing it on the fact that you're a lawyer, so I apologize, since you led with that.

TOM ASHBY: Sure.

BLOOD: So, so I appreciate you answering the questions. I will wait to see if we have somebody that has a little bit more knowledge about the federal guidelines. But I just want to make sure that whatever we decide in the committee is equal to what we're already, what we're already allowing. Like we seem to look the other way on things like, like bingo. But I know people who have gotten in trouble financially playing bingo at church, at community centers, but we don't seem to have a problem with that. And I find that dichotomy very puzzling, so that's kind of where I'm coming from, and I appreciate your time.

BRIESE: Thank you, Senator Blood. Anyone else? Seeing no other questions, thank you for your testimony.

TOM ASHBY: OK, thank you. And I apologize to the committee, but I had a prior commitment in-- back in Omaha and I'm here as a volunteer, so I might have to leave before the discussion's concluded on this bill. Thank you.

BRIESE: OK, very good, thank you. Next opponent? Good afternoon and welcome.

LES BERNAL: Thank you. So good afternoon. My name is Les Bernal, L-e-s B-e-r-n-a-l, and I'm the national director of Stop Predatory Gambling, which is based in Washington, D.C. Two of our national board members are from Nebraska and they are here today, Pat Loontjer, who's the

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

executive director of Gambling with the Good Life; and Jenise Brown, who has an incredible family story about gambling that she'll share with you later. I submitted very detailed written testimony to the committee, which I hope you'll have a chance to read, but I want to briefly highlight one piece of that. So The Dave Ramsey Show, which is hosted by personal finance expert, Dave Ramsey, is the fifth most downloaded, downloaded podcast in the United States. And why is that? Because tens of millions of citizens are broke. Saving is the road to wealth creation. Yet, this concept of savings is almost foreign to, to more than half of Nebraska's citizens. According to banking rate-- bankingrates.com, one out of three Nebraska citizens have zero dollars in savings; one out of two citizens have less than \$1,000 in savings. Several hundred thousand more citizens, these are all your constituents, they're one job layoff, a medical problem, or a death in the family from being broke themselves. So while all this is going on, Nebraskans are suffering life-changing, life-changing losses of personal wealth to commercialized gambling, and the sheer size and scope of these financial losses lacks any comparison. So right here in Nebraska, your constituents have lost \$1.2 billion of their personal wealth to the Nebraska Lottery since 1993. So those losses would be far more severe if Nebraska had allowed casinos inside its borders or expanded into other extreme forms of commercialized gambling. The gambling proposals before you today, which we obviously oppose, will also make these financial losses even worse. So building wealth, you know, the idea of building assets, the accumulation and investment of savings, those are key to anyone looking to make a better life. It's not just how much you make, it's how much you keep. So a home, a college fund, a retire-- retirement accounts, a stock portfolio, these assets are the hallmarks of middle and upper class America, and they are all the result of savings. So building wealth is the direct opposite of commercialized gambling, that's why it matters so much. No single policy, policy reform would create more financial peace for low- to middle-income citizens than reversing the current steam-- scheme of state governments, turning millions of people who are small earners who could be small savers and stop turning them into habitual betters. Thank you.

BRIESE: Thank you for your testimony. Any questions? Senator Moser.

MOSER: Do you survey states that have expanded gambling in comparison to Nebraska to find whether they have more social problems from gambling than we do?

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

LES BERNAL: Yeah. Well, we don't, we don't have the-- we don't do a formal national survey on that. But I can-- you can just look at the numbers. I mean, you have your savings rate, you, you have 50 percent of your citizens have \$1,000 or, or less in savings, which is still shockingly low, but that's actually better if you can believe it than most states in our country. Your tax, your financial condition as a--

MOSER: Well, what I was thinking-- what I was getting at is somebody like Iowa that has more forms of gambling than what we have. And whether you see more social ills from gambling there than what you see per capita in Nebraska?

LES BERNAL: I don't, I don't think it's any question. I mean, see a lot of states-- because this is, this is essentially a government program, like this isn't free market, this isn't kind of free enterprise, this is a government program. And so we all kind of shield our eyes from this, I never questioned any of this, it was like the paint on the wall until, 15 years ago, I really understood what this is all about. So state governments, like there's no one measuring that, you know, in terms of the amount of, of-- the rate of gambling addiction, all the gambling research in this country, almost all of it is funded by gambling interests. OK, almost all of it, and state governments, we all kind of shield our eyes. So to your specific question, there isn't any question that the, the states that are the biggest predatory gambling states in the country are also-- have, have the highest rates of family dysfunction. In Nevada, which obviously has, has commercialized gambling everywhere is, is at the bottom of every major, you know, family dysfunction scale that you can think of.

MOSER: OK, thank you.

BRIESE: Thank you, Senator Moser. Anyone else? Many states have attempted to fund tax relief education with gambling revenue. Is it my understanding that those efforts eventually proved fruitless?

LES BERNAL: Yeah, so you won't find an independent study that supports the notion that gambling-- commercialized gambling revenue is-- has been a successful revenue source. OK, the only people that come before you to say, oh, let's look at the revenue from this are things like Spectrum Gaming, which is a, a consulting firm for gambling interests, the Innovation Group, which is another consulting firm for gambling interests. But the best independent research in the country, and don't take my word for it, it's actually in my testimony, you can look it up for yourselves, but the best research in the country now is being done

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

by Lucy Dadayan, she used to be at the State University of New York in Albany, and she-- they released a report in 2016 that-- she's done several reports over the last 15 years on this topic. But her work consistently shows that over the long-term, gambling revenues, they go down. And that's why you have-- that's why states move from like \$1 scratch ticket, then they sell the \$10 scratch tickets. So the only way you keep that, that revenue source up is you have to keep adding new and more extreme forms of gambling. So there isn't any question about it, it's some-- and the short of it is, it's the ultimate budget gimmick. And for all the, all the-- two-thirds of your constituents never gamble, OK, two-thirds of your constituents never gamble. For all the, for all the citizens who don't gamble, they pay even if they don't play because all of these budget problems that occur, we rely on these, these budget gimmick revenues-- over the long-term, you build these into your budgets, and all of sudden you're stuck, so now you're scrambling. So there's a reason why states like Illinois, Pennsylvania, New York, Connecticut, New Jersey-- you name the state-- they're in a financial distress because they don't deal with their financial issues, like they rely on gimmicks like Illinois and New Jersey are two of the biggest predatory gambling states in the country, Illinois is going bankrupt, New Jersey is ranked 50th in the nation for its fiscal condition by, by the Mercatus Center, which is at George Mason University. I mean, show me a state that has big time predatory gambling-- you know, it doesn't-- they don't exist because it's a gimmick, OK, without question it's a gimmick.

BRIESE: OK. Thank you.

LES BERNAL: Thank you.

BRIESE: Senator Arch.

ARCH: Thank you, Senator Briese. One, one other question, you seem to be aware of research on this issue. Is there, is there correlation between participation in gambling and socioeconomic status?

LES BERNAL: Oh, there isn't-- there's no debate in our country about where-- who plays. Like so the, the lottery-- actually, in Gallup, which is based here in Omaha, they do an annual poll and they always-- we always see this from lottery directors, they'll have a poll, look, middle-class and, and, and low-income people all play, you know, the lottery, OK, meaning they, they played in the last year. The question that, that state governments don't want to ask themselves is what's the frequency of play? I live in one of the poorest communities in

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

Massachusetts. On every street corner, they sell \$30 scratch tickets, OK? Texas sells \$50 scratch tickets in the poorest neighborhoods of their state. Here in Nebraska, your concentration of lottery outlets are gonna be in more low-income areas. It's inherent. There is no debate in our country about who plays the lottery, OK, and that's why 50 percent, 50 percent of your citizens have less than a thousand bucks in the bank. And it's marketed to them. State lotteries are exempt from truth in advertising laws, so they market to this. If you think casinos operate any different, all over the country they have billboards, you know, we actually have one on our website, you know, your way to easy street. So here you are, you're financially desperate, you can't pay your rent, and you know, here's my answer, I'm gonna go out and-- instead of building like the rest-- the best of middle-class and upper-class folks have retirement funds and college funds and housing funds for their kids-- you know, people blowing their money on games that are really rigged against them. So anyone who says, oh, gambling's like the stock market, it couldn't be anything further. Over the last 50 years, Standard and Poor's has gone up infinitely. If you invested \$1,000 50 years ago, you'd probably be close to a millionaire. If you bet, if you bet \$1,000, \$1,000 on scratch tickets or down a slot machine, you know, inevitably you're gonna lose all that money. So there's nothing remotely similar to playing the stock market, which is investing versus speculation, which is what commercialized gambling is.

ARCH: Thank you.

LES BERNAL: And if I-- oh, sorry. Yes, sir.

BRIESE: Thank you, Senator Arch. Senator Blood.

BLOOD: Thank you, Chairperson Briese. I'm sorry, your name is Les?

LES BERNAL: Yes.

BLOOD: And Les, where are you from?

LES BERNAL: I am from Massachusetts.

BLOOD: From Massachusetts, and so what brought you to Nebraska today?

LES BERNAL: So I was invited, we have two national board members, Pat Loonjter, who is the executive director of Gambling with the Good Life,--

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BLOOD: Gambling with the Good Life, right.

LES BERNAL: --and Jenise Brown, who is one of our national board members, whose family lost more than \$4 million at the hands of an employee who embezzled money from a company because they were addicted to gambling.

BLOOD: So one of the questions that I have for you: Are you familiar with the Hunt Institute at all?

LES BERNAL: Spell it, H-u-n-t?

BLOOD: H-u-n-t, the Hunt Institute.

LES BERNAL: I'm not.

BLOOD: So this summer, I was at a Hunt Institute educational opportunity that they provide for policymakers across the United States. And if I heard you correctly, you said that there's no evidence that any of the states that have utilized funds for early childhood development or for education have been successful. Is that correct? Did I hear that correctly?

LES BERNAL: Oh, no, exactly what I said is those programs might be successful, funding those programs as a revenue source using gambling has not been successful. So Georgia right now is lobbying for casinos because they tied their lottery revenue to HOPE Scholarships and to early education. And, and because the revenues are going down, they're desperate for revenues.

BLOOD: So I have to say, to be really frank with you, I've heard differently and saw evidence that is the opposite of that. So I, I would encourage you to perhaps maybe reach out to them and get some of their data. I'm not disagreeing with what you're saying,--

LES BERNAL: OK.

BLOOD: --but--

LES BERNAL: I'm happy to look-- I'm not familiar with them. I know, I travel all over the United States, I've never heard of the Hunt Institute, so I'm happy to-- I'll look-- I'll gladly look at it, absolutely. But, but I will say, I have, I have deeply sourced research in here about, about the numbers that show on the revenues and so on. So I'm happy-- you know, I hope you'll look at those as

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

well, but I'm happy to look at any Hunt Institute that you're referencing.

BLOOD: So and where in Massachusetts are you from?

LES BERNAL: I'm from 20 minutes north of the city called Lawrence, Massachusetts.

BLOOD: But not from Nebraska?

LES BERNAL: What's that?

BLOOD: But not from Nebraska, you're from Massachusetts?

LES BERNAL: I'm, I'm not from Nebraska, but we have, you know, several hundred members of our national network who are members of Stop Predatory Gambling here.

BLOOD: All right, thank you.

LES BERNAL: You're welcome.

BRIESE: Thank you, Senator Blood. Anyone else? And, and maybe you've already done it, but how do you respond to those folks that, you know, really point to the opportunities right across the river from the Omaha metro area that suggest because of the proximity there, we ought to be doing it?

LES BERNAL: Yeah. So I think-- I mean, I get it, that, that argument you hear here, like that is a recycled argument that every state gambling lobbyist across the country uses. So Alabama, as we speak, is having a debate on casinos right now. You know what the argument is? Well, if we don't do it, they're just gonna go to Florida, they're gonna go to Mississippi. It's a recycled argument. And the irony is these are national companies. So these national companies come in and they pit state against state. OK. So that whole going-- we call it the going out of state narrative, OK, that, that-- no one can stand up and say this is a great thing for the people of Nebraska. You know, no one says, I'm proud to bring this into my community. You know, you have to-- we start rationalizing it on this message and say, well, you know, if we don't do it, then it's gonna go here. But that goes to the heart of what I started out with this, what makes gambling different, commercialized gambling different than any other commodity is it's a form of consumer financial fraud. That's why it's illegal, OK, it's not-- and what makes it different than other vices, you go--you order

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

a glass of wine, that's what you get in return. When, when you order pizza, that's what you get in return. If you go to a Nebraska Cornhusker's game, that's the experience you get. With commercialized gambling, what you receive is the lure that you might win money, OK, it's a financial exchange, but this financial exchange is rigged against you. OK. So it's a con at its core, that's why commercialized gambling is illegal-- you know, it took-- unless you partner with state governments. And so when you, when you-- respectfully the senator, I think, mentioned that she writes business models-- I mean, I, I go around the country and say, look at the business model for casinos, look how they make their money, their money is based on a financial-- they talk about hotels, they talk about restaurants. You know, Omaha has great hotels, you have great restaurants; that's not what this is about. I mean, this is about-- you know, this is about a con, a big con. And the irony to this, we call it, you know, it, it, when we call it entertainment and so on, the people-- this is the only business or service in the country where the people that own it and promote it don't use it. So almost every gambling operator and, respectfully, most, most public officials who promote this stuff, they don't gamble with any kind of frequency. So all your big casino executives, they don't gamble. The slot makers, they call the people that make these machines losers, you know, from The New York Times. So that's-- this is your constituents, and that's what drove me to this, like that story in The New York Times wrote that, that the slot makers call their, their-- the people who use their machines losers-- and it changed the outcome of my life. So I just respectfully-- dig into this. If I-- there is a lot of extremely talented people on-- watching that first hearing, I was very impressed. Dig into this, don't-- go through our research, I'm happy to answer any questions, and my e-mail's on it, and I-- but it's, it's part, part of the fraud.

BRIESE: OK. Thank you very much.

LES BERNAL: Thank you.

BRIESE: Seeing no other questions, thank you for your testimony.

LES BERNAL: My pleasure.

BRIESE: Next opponent testifier? Good afternoon and welcome.

BRIAN ROCKEY: Good afternoon, Senator-- Chairman Briese and members of the General Affairs Committee. For the record, my name is Brian Rockey, B-r-i-a-n R-o-c-k-e-y. I'm the director of the Nebraska

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

Lottery and Charitable Gaming Division of the Nebraska Department of Revenue. And I'm testifying on behalf of the agency in opposition to LB971. Article III, Section 24(1) of the Constitution of the state of Nebraska states: Except as provided in this section, the Legislature shall not authorize any game of chance-- end quote. Sports betting is not listed as an authorized game in this section of our constitution, and the bill may be unconstitutional. Now beyond the constitutionality question, the scale of proliferation described in LB971 would present challenges based on the diverse regulatory framework of the existing types of gaming to which sports betting would be added. Currently, there are 72 counties encompassing 177 licensees, cities, and villages licensed to conduct keno. Within them, there are 774 locations across the state at which keno is played. These locations are managed by 172 operators, which would require an interface with a sportsbook operation. Those operations would likely do business with the nine companies that currently control those operator licenses. The differing resources of the various operator businesses could complicate that interface, including monitoring and reporting. Four hundred and eight organizations are licensed to conduct lottery raffles in our state. Unlike keno, these are paper mechanisms, offering generally lower value cash and merchandise prizes in mechanical or electronic means, are prohibited in chapter-- pardon me, statute 9-411 and 9-415 respectively. There are approximately 1,200 Nebraska lottery retailers, locations ranging from small independent businesses to links in a nationwide chain, all with varying products and hours of operation. Current statute 9-823, Section 4(c) excludes sports events and horse and dog races as the basis for a lottery game. Active sports betting states or where they are or will be regulated by the lottery, have vendor contracts to manage sports betting services. The current Nebraska lottery vendor contract does not cover sports betting and consequently a separate RFP process or vendor contract would be required, that's a 6-12 month process. Age restrictions in place among the three forms of gaming cited in LB971 vary: for lottery raffle, the age is 18; for keno and Nebraska Lottery, the age of participation is 19. Additionally under existing law 9-426, organizations may apply for specific-- for special lottery raffle permits for one three-month period per year. Under LB980, this could be an all-year permit. And I see my time is up, got just a few more. I'd be happy to answer questions and probably can, can cover that.

BRIESE: Very good. Thank you for your testimony. Any questions? Yes, Senator Moser.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

MOSEER: So your objection to the bill is not because gambling is bad, it's just on technical reasons?

BRIAN ROCKEY: It's, it's unconstitutional.

MOSEER: Well, I don't want to suggest that the constitution is a technical problem.

BRIAN ROCKEY: Yes, sir.

MOSEER: OK. Thank you.

BRIAN ROCKEY: Yeah.

BRIESE: Thank you, Senator Moser. Anyone else? Maybe this would have been a question better suited to the last testifier, but when, when I think of raffles, I think of lottery, I don't think of sports betting. Is this, is this approach unique to your knowledge?

BRIAN ROCKEY: To my knowledge it is, Senator. To be honest we haven't made a--

BRIESE: I mean, relative to other jurisdictions?

BRIAN ROCKEY: I'm sorry.

BRIESE: Relative to other jurisdictions?

BRIAN ROCKEY: Correct. I, I think the sports betting generally applies to a venue. Some of the lotteries around, around the country are engaged in managing sports betting. Rhode Island, for example, runs the Sportsbook. That's fairly unique.

BRIESE: OK. OK. Thank you.

BRIAN ROCKEY: Um-hum.

BRIESE: Seeing no other questions, thank you for your testimony.

BRIAN ROCKEY: Thank you, Senator.

BRIESE: Next opponent testifier? Good afternoon and welcome.

TOM OSBORNE: Good afternoon. Thank you, Mr. Chairman, members of the committee. My name is Tom Osborne, T-o-m O-s-b-o-r-n-e, and I'm testifying in opposition to the bill, LB971. And so I'll mention a few

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

things here, and, and first of all, I'd like to distribute these copies. I didn't realize the meeting was quite so large so I may be short a few copies. So first of all, my opposition is based on the fact that I've always seen gambling as being based on a fraudulent premise, that the gambler will make money over time and odds makers make sure that this is mathematically impossible. Gambling produces nothing new which is of value, it redistributes wealth, often to outside gaming interests, and usually impacts most those who can least afford it. It is the equivalent of a highly regressive tax. And so the other thing I'd like to mention is this: Legalizing gambling greatly increases the number of gamblers, as people who would shy away from illegal activity now choose to gamble because it is given the stamp of approval by legal authorities. And so in states where they have legalized sports gambling, the number of sports gamblers has increased exponentially. Legalizing gambling increases on-line betting. On-line gambling has increased the percentage of problem gamblers greatly due to accessibility and the frequency of gambling. The thing which tends to increase addiction to gambling is availability and speed with which you can gamble, and so on-line gambling obviously meets both of those needs. In countries such as the United Kingdom and Australia, which has legalized sports, sports betting, gambling advertising has flooded the airwaves. Research has shown that in the UK, most young people associate sports with gambling because the number of ads has increased to such a degree that more gambling ads than other kinds of ads are on sports events. One-half of UK teenagers believe that gambling on sports is a good way to make money-- again, because of the influx of advertising. Often, fans demonstrate their loyalty to their team by betting on the team. Such base-- such bets are based more on emotion than reason and often entail amounts of money the fan can ill afford to lose. And so if you're a big Nebraska fan, sometimes you want to emphasize your loyalty by placing a bet. And sports fans are inundated with information about Nebraska, and they don't know much about other teams, and they have just assumed that maybe Nebraska is gonna win. And so legalizing sports gambling will make it easier to bet on such things as first downs, turnovers, yards gained in football, whether a free throw will be made or missed in basketball, whether a baseball batter will sit-- will get a hit or, or strike out. So you can sit there with your phone, and on the Internet, and on all kinds of things, and it really detracts from the experience of the, of the game.

BRIESE: I hate to do it, but I'm gonna cut you off here,--

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

TOM OSBORNE: OK.

BRIESE: --but I'm-- in the interest of consistency, but I'm sure someone will ask you a question. Thank you.

TOM OSBORNE: OK.

BRIESE: Any questions? Senator Hunt.

HUNT: Thank you, Chairman Briese. Mr. Osborne, would you like to finish your thought? I would like to hear what else you had to say.

TOM OSBORNE: If I could, they're, they're very brief at this point. And I, I would just like to add that I did spend a lot of time in coaching. And so over those 25 years, I'd say most of the really unpleasant interactions I had with fans-- didn't have a whole lot of them-- involved somebody who lost a bet. You're naturally unhappy if your team loses, but if your team loses and you lost \$1,000 you can't afford to lose, you're really unhappy. And sometimes you'll write letters that are very, very hurtful. But now with, with social media, you can really put some invective stuff out there in a hurry, and it isn't just towards your coach, it's towards the players. And right now, I would say that Nebraska is known as having one of the more friendly-- fan friendly, hospitable places in the world to see an athletic contest, and this is not just for our fans, but for visiting fans. And I think anything that you do which causes the environment to be more toxic is something that most Nebraskans would not want. And so I think for that reason-- and the fact that, you know, we can at least learn from other examples, like in places where it has been legalized, other countries been legalized, it has detracted from appreciating the skill, and the actual action on the field is no longer the central, central activity, it's more did I win a bet on this segment of the game, this turnover, this number of strikeouts, whatever. And eventually, you, you attract a large number of fans who are simply there to look at the number of bets they can place and how much money they can make and/or lose, and I think that changes the nature of the, of the event. So for those reasons, I'm in opposition. I understand why people talked about doing this. And when I was in Congress, I saw it happen. You know, Illinois legalized gambling, so immediately they put casinos and, and gambling opportunities across the river from-- in the Quad Cities. And so now we have them. And so somebody, at some point, has to stop that because that's the way the gambling industry, as the previous gentleman was speaking, has proliferated gambling

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

across our country. And it does, I think, do so to the detriment of our citizens.

BRIESE: Very good. Thank you. Any questions?

TOM OSBORNE: OK.

BRIESE: I was gonna ask, over the years, you know, you've obviously been a mentor to young folks in your role as a coach and then being involved in the TeamMates Program and other items, is expansion of gambling or would expansion of gambling in our state handicap those efforts in trying to be a role model and trying to mentor young folks?

TOM OSBORNE: Well, we've, we've had some, some mentees who have been impoverished by the effects of gambling, it hasn't been their fault. But if a, if a family member is addicted to gambling, it, it devastates that family. And the more kids that live in poverty, the more likely they are not to graduate from high school, not to-- and most of the things that you'd hope a successful person would have in their life. And of course, the other thing that you're always concerned about is integrity of the game. We haven't had a major scandal here in recent years. But the more money that's thrown at athletics and athletic gambling, there's always the greater temptation. Let's say some guy goes up and plays the slots and he's an athlete and he gets in the hole and then somebody comes to him and says, well, you know, it doesn't look like you can pay off this debt, but miss a couple free throws or fumble the ball, it can even the score. And so I think most people are concerned about the integrity of the game. So that's one reason why people for many, many years have said gambling on athletics is, is off limits and--

BRIESE: Very good. Thank you.

TOM OSBORNE: Um-hum. Yep, thank you.

BRIESE: Thank you for your testimony. Next opponent testimony? Good afternoon and welcome.

NATE GRASZ: Good afternoon, Chairman Briese and members of the General Affairs Committee. My name is Nate Grasz, N-a-t-e G-r-a-s-z. I'm the policy director for the Nebraska Family Alliance, and apparently also have both the privilege and challenge of getting to follow Coach Osborne today. But we are, we are proud to join with, with Coach Osborne and the many other testifiers here today opposing both bills

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

seeking to legalize sports gambling, as well as the constitutional amendment before you today. We are opposed to these proposals because they all serve to dramatically expand gambling, gambling losses, and expose children to harmful messages about gambling. Making a bet with a friend is one thing, but making the government a partner with, and enabler of, the commercialized gambling industry makes government a tool in the further financial exploitation of its citizens. This inverts the traditional relationship between citizen and government, which should protect rather than exploit its people. It's worth noting that poker, fantasy sports, and sports betting are all treated as gambling by Nebraska's own state-run Gamblers Assistance Program, which points out on the home page of their website that the more you gamble, the more you lose. When it comes to state-sponsored gambling, in order for the state to win, it's our own citizens who must lose. The Nebraska Gamblers Assistance Program also concludes that gambling advertising often attracts the people who can least afford it. But gambling operators don't pay for the harms they cause families, businesses, and communities; taxpayers do. Legalizing the commercialized sports gambling industry also promises that gambling advertising will occur at intrusive levels and expose children to high levels of gambling advertisements. This is especially concerning given that studies show children in areas with legal sports gambling are repeatedly exposed to harmful messages about gambling. For example, a report from BBC News found that in the United Kingdom, where sports gambling is legal, one out of every five ads during a sporting event is a gambling ad. Researchers have found that the high frequency of sports gambling advertising has normalized gambling for kids who now see gambling as central to playing and watching sports. A 2018 study published by the Daily Mail also showed that two in three teenagers in the UK feel deluged by advertisements from sports gambling firms, and more than half of 16-year-olds have gambling apps on their smartphones, which is two years before they are legally allowed to place bets. The younger children start gambling, the more likely it is they will become habitual and problem gamblers later in life. Nebraska is ranked as the least gambling-addicted state in the country, and we encourage the committee to work to maintain this important status. Thank you.

BRIESE: Thank you. Any questions? Seeing none, thank you for your testimony.

NATE GRASZ: Thanks for your time.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BRIESE: Next opponent testifier? Good afternoon and welcome.

JAMES PATTERSON: Good afternoon, Senator Briese. My name-- and, and senators. My name is James Patterson. I'm a pastor at Trinity Hope Foursquare Church in Omaha, Nebraska. I also-- I'm also the founder of the North Omaha Good News Bears, a kids club, been in existence now for 29-- this is our 29th year, and I also sit on the Commission-- Problem Gambling Commission. But I'm here as a private citizen and I'm here representing the North Omaha Good News Bears. I want to, I want to speak in opposition to all three of the gambling bills and which I, I will not be able to stay for. I work with-- the community who I work with are a community who does not-- they are at the bottom of the economic ladder and they-- I have to cast vision with them on what they can become, we, we work on a lot of things. In their community, they don't have a lot of people, professionals in the community who cast a vision with them on what they can become and this is the path, and the track, and so on and so forth. And so we do a lot of that. I am, I am in opposition to all of the gambling bills because they project an easy way of, of achieving financial success. The models that I strongly encourage is through the educational approach and setting dreams, pursuing, accomplishing those education, going up the educational ladder and, and then savings and deferring your momentarily achievements of pleasure of spending, saving for a purpose. And that's one of the things we do with the Good News Bears. We-- in our club, we have a place where we reward them for, for making good grades in school and for being-- doing meritorious things. And we have things in there that they can immediately redeem, their "Bear Bucks" for-- and immediately-- or they have greater value things that they can do also. What we, we-- those greater value things have higher cost to them and they cannot achieve those without saving and planning and dreaming to get there. Gambling doesn't do that. Gambling is something, and, and, I'm-- and Senator Wayne, this is a friend of mine, by the way, his grandmother attends my church and I've known him for a while, and, and I'm supportive, supportive of him. But it just so happens in this particular case, I, I don't. I'm against the gambling and these bills. In my community, I want to be able to encourage them to do things that the odds are not stacked against them statistically and they have, and they have a chance to actually achieve something utilizing their God-given abilities. I think my time is up, so I, I will stop.

BRIESE: Thank you for your testimony. Any questions? Senator Moser.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

MOSER: So you don't see an entertainment value to occasionally gambling-- I mean, do you see-- well, let me ask, ask that question first.

JAMES PATTERSON: Pardon me?

MOSER: Do you see any entertainment value in occasional gambling?

JAMES PATTERSON: I mean, I would not take that away from someone, but I would say that I want to encourage them to do the thing that is going to-- that they can build wealth on. And I know that they're-- for those who practice this a lot, they're becoming addictive behavior. And so-- but I--

MOSER: Do you see, do you see in your church or in your acquaintances, people whose personal fortunes have been completely dissipated by gambling?

JAMES PATTERSON: Not completely, but I can think of a family who was severely injured and, and, and the family members' behavior had to shift and change as a result of that financial loss and injury in behavior.

MOSER: Are there certain forms of gambling that you're more focused on stopping or are you just, in general, policies against gambling?

JAMES PATTERSON: Just, just-- I, I would encourage them to do the things that has the higher probability of, of success and gambling doesn't offer that.

MOSER: OK, thank you.

JAMES PATTERSON: You're welcome.

BRIESE: Thank you, Senator Moser. Any other questions? Seeing none, thank you for your testimony here today.

JAMES PATTERSON: Thank you.

BRIESE: Next opponent testifier? Good afternoon and welcome.

JENISE BROWN: Good afternoon. Thank you, Senator Briese and the committee for your time and service to our state. The state of Nebraska to me--

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BRIESE: Name.

JENISE BROWN: Jenise Brown, J-e-n-i-s-e B-r-o-w-n. I grew up, born here, lived in the state of Nebraska and loved the state of Nebraska, do everything I can to stay here in the state of Nebraska because I think it is the good life. I and my family were affected by gambling personally through our controller of our business. She gambled, Ameristar Casino, \$4.2 million from my company that she embezzled and stole and was addicted and is now in prison. It affected our family greatly. And that was-- she embezzled 2010 to 2012. We struggled for a year and a half after that trying to recover, eventually filing bankruptcy in 2014. And we have been struggling ever since to recover. My children, instead of their parents being there for them, instead of us being there for them, as the strong parents that we had had-- they had had for their whole life. For 30 years, my husband and being married, we did all the right things. You know, we, we saved our money, like Les Bernal was telling you. We had a savings. We had a business that was supporting our family. And I didn't ask for this cause; this cause found me. And so by, you know, the industry preying on an individual and they did prey on her and they kept her there. I really don't have any ill will towards her-- long-term ill will towards her because of the addiction that she had been groomed to have. She put down two businesses prior to mine and then our company. So three businesses in Omaha, Nebraska, one gambler put away. One of them was her own and her family got her out of that. The second one closed and they failed to prosecute; and then she came-- and this was a very bright person, she had very-- she had a very talented future ahead of her because she was very intelligent and bright. She also had a void in her life that they took advantage of. And I'm not a psychologist, but they took advantage of that void in her life. And there are, there is a piece of the pie-- when you talk about gamblers, there's a piece of the pie that the gambling industry looks for, and they look for the people in that piece of the pie to prey on. And they preyed on her, and I can give you-- I could, I could be here for days telling you. We took a year to investigate our case. And the things that happened to her were just disgusting to me.

BRIESE: Very, very good.

JENISE BROWN: Yeah.

BRIESE: We have the red light there. Thank, thank you--

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

JENISE BROWN: Oh, sorry.

BRIESE: --for your testimony. Any questions? Seeing no questions, thank you, again, for your testimony.

JENISE BROWN: Thank you.

BRIESE: Appreciate it. Good afternoon and welcome.

KEITH BECKER: Good afternoon, Senators. Thank you for this time. My name is Keith Becker. I am from Kearney, Nebraska. I did get a little kick when someone said they drove 400-some miles, and so at least they ought to ask them a question, and I'm back there nervous going, I drove 100 miles, please don't ask me too many questions. But I represent the Todd Becker Foundation out of Kearney, Nebraska. We're a youth organization that's existed for 15 years, started when my brother, Todd, was tragically killed in a drunk-driving accident. And long story short, since then, we have traveled from North Dakota to Texas, New Mexico to Iowa, visiting about a 15-state region, going into public high schools and encouraging young people to make positive life choices, to steer clear from things like underage drinking, premarital sex, all kinds of drugs, you name it. One of the things that we've done in the last five years is developed an internship program where we take young people, who have turned away from destructive choices, that we met from South Dakota to Texas-- you name it-- and they come and they spend nine months in our internship program and we try to develop them into young leaders. And the reason why I'm here in opposition of these three bills, it's been stated I think very clearly from several other testifiers, but one of the things we take our interns through is a program, part of it on making good choices is-- making good choices in regards to your finances. We've taught our young people to do their very best to manage debt, to stay clear of it, of course, knowing the college debt and stuff like that. The thing that I'm most concerned about when I look at this bill or these three bills is that 50-some percent of young people tend, as has been said in some of these statistics, they tend to see gambling and go, that is a good way to make money. And in fact, it's already been stated, statistics show that it really is a poor choice in regards to that way leading to a way that could actually help them develop wealth. A few comments were made, as Senator Moser had asked, do you see any differences in any states? As I mentioned, Senator, we travel 15 states. Hands down, I can say that when we drive across the border from Valentine, Nebraska into Pine Ridge, which has Todd County, South Dakota, has one of the highest suicide rates of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

15-year-old kids we minister to every week. I can say without a doubt, we have seen clearly from one state line to the next the dramatic effects that gambling has in a society, in a community. Down in Oklahoma, just last week, a town called Boise City, Oklahoma we were at, and the community spoke of a, a casino that was just moved into their town of about 10,000, and how it dramatically changed the landscape of those people that come into the community. So I would just really conclude and just encourage you-- we've talked a lot about finances. And Senator Blood made a comment, which I certainly appreciate and I got a chuckle out of, said it-- are, are you encouraged or wanting to legislate it? And this has been my experience dealing with young people-- and I know my time is up, so I hope you'll ask a question.

BRIESE: We need to wrap it up, we need to wrap it up. Thank you. Any questions? Senator Lowe.

LOWE: Thank you, Chairman Briese. And Keith, good to see you here.

KEITH BECKER: Yes, thank you, Senator.

LOWE: Could you please continue on?

KEITH BECKER: Yeah. Very briefly, the comment was, would we like to legislate it or regulate it? And my experience has been if we regulate drinking to age 18, the young people are gonna drink as soon as they turn age 18. Anytime we legalize something, we, in essence, give a stamp of approval to it. And so that's why we would from our organization be strongly opposed to any form of legalized gambling throughout the state.

LOWE: Thank you for driving the 135 miles.

KEITH BECKER: Thank you.

BRIESE: Thank you, Senator Lowe. Senator Blood.

BLOOD: Thank you, Chairman Briese. And thank you for your testimony.

KEITH BECKER: Thank you.

BLOOD: I hope you have a safe trip home. So since you were addressing something that I said.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

KEITH BECKER: Sure.

BLOOD: So the question I have for you then is that knowing that say-- like right now we know for a fact that there is fantasy sports that are played especially by our young people on their phones. And it's happening right here in Nebraska, young people, adults, older people, and we don't regulate that, so are you saying that knowing that something is already going on and not regulating it is also a bad thing?

KEITH BECKER: What I would,--

BLOOD: Isn't that just turning a blind eye?

KEITH BECKER: --what I would say, Senator, is we are regulating it by saying it's illegal.

BLOOD: But, but we're not, we're just not regulating it.

KEITH BECKER: Well, when we have a law that says it's illegal, then what I can do to a young person is say, you know, for example, it's-- 21 is the legal age to drink, so I would educate that person to make good choices with regards to drinking when they turn 21. But before that age, I can very-- with a good conscience say, young man, young woman, it's illegal, you should not be doing that. So the fact that it's illegal is, in fact, regulation.

BLOOD: Right, absolutely, the fact that it's legal, it's regulated, but also the fact that it's illegal, it's regulated. Correct?

KEITH BECKER: Well, I certainly understand what, what-- there's kind of a circular point. But the point is, if something is illegal, my regulation is it's illegal, it's wrong therefore to do it. And anyone that chooses to do so would face the consequences of an activity that's illegal. And so, again, what my point would be is that as soon as we legalize something in a young person's mind from the people that we deal with, it is in a sense giving that approval that this is an activity that is a positive choice. And again, our, our experience and our teaching to the young people we deal with would say gambling is not a form that would help enable a future that is bright, and that is also-- especially with young people who are extremely prone to debt, we would say steer clear of that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BLOOD: So I'm gonna ask you the question I ask everybody, because this has always been my dilemma. So do you talk to them about things like bingo?

KEITH BECKER: So that's a great, great question. To answer that question, what I would say is when you look at a game of bingo, right, I don't typically associate bingo with alcohol. And Senator Moser asked a great question earlier about is: You had any, any experiences personally? I had a, a high school classmate who-- two things always went together in their home: alcohol and gambling. And that man's father died of the addiction to alcohol that came from the drive and the thrill of gambling, and he died in his 50s. And so certainly understand that bingo could be equated with a form of gambling, I understand that, but I think it would be hard--

BLOOD: It is a form of gambling because it's a game of chance.

KEITH BECKER: Sure.

BLOOD: So that's-- not to interrupt you, but that's the dichotomy that I can't ever seem to hear from anybody, is that we seem to turn blind eyes to something that's, that's considered gambling and bingo is a game of chance. And I know two people who lost their homes because of bingo.

KEITH BECKER: And, and what I would say to that--

BLOOD: And, and when you talk about the addictions that you just talked about, it's true, addictions go together.

KEITH BECKER: Sure.

BLOOD: Right, they got [INAUDIBLE] personalities.

KEITH BECKER: What I would say for the record is we would be counseling our young people that come through our program that a bingo is not a good use of your money either. So to be consistent-- again, most of the time, though, bingo's not associated with billboards that say you're gonna get rich quick, you're gonna win it all. Typically, it's associated with a very minor, minor type of activity.

BLOOD: But still gambling.

KEITH BECKER: Certainly true.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BLOOD: Thank you.

BRIESE: Thank you, Senator Blood. Any other questions? Seeing none, thank you for your testimony.

KEITH BECKER: Thank you, guys.

BRIESE: Next opponent? Good afternoon and welcome.

LORETTA FAIRCHILD: Thank you, all. My name is Loretta Fairchild, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d. Thank you, all. The lottery in Omaha and Lincoln already have been accused of discrimination against the poor in locations of their sales and their advertising. This bill feels like an attempt to do an end run to gain official sanction from the government of Nebraska for sports betting without due consideration by the Legislature. My chief question is: What is the benefit to the state as a whole? My point is that, since Nebraskans are already easily doing all the on-line sports betting that they want, what is the reason that the state of Nebraska needs to put its state stamp of approval onto it? It will benefit the national private companies running some of these sites who want federal approval. But who are the Nebraskans who are expecting to benefit personally? The Horsemen of Nebraska are on record for wanting slot machines that they expect to profit from. Shouldn't the Legislature have clear information on which Nebraskans expect to profit from the passage of this legislation before it moves out of committee? Why are the authors of this bill unwilling to define an authorized sporting event? Why are they punting that determination to a subdivision of the Revenue Committee? That committee is already so understaffed and overworked that they struggle with getting in-depth fiscal notes ready on time. How much more staffing will be provided to the Revenue Committee at taxpayers' expense to make these determinations at the beginning and in the years ahead? Why isn't the Legislature being presented with a clear list of what will be authorized before you bring this out of committee? The text says that high school and youth athletic events will be excluded. Why is that? If this is such a benefit to the world of sports, why isn't it equally helpful to youth sports? The lottery was set up to benefit local nonprofit organizations. This money will go to out-of-state for-profit corporations. They don't like the limit on the lottery pots. The lottery says every ticket must have an equal chance of winning, but the sports betting want to be exempted. In-- on page 9, it says-- it's got the old language in there, "No lottery games shall be based on the results of a dog race, horse race, or other sports event." Do the majority of Nebraskans want the lottery

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

distorted in this way? Does this bill meet the smell test for commonsense legislation? Please let it die in committee as you get on with all the serious legislative challenges Nebraska is facing. Thank you.

BRIESE: Thank you. Any questions? Seeing none, thank you for your testimony today. Next opponent? Good afternoon and welcome.

AL RISKOWSKI: Good afternoon. Thank you. Almost evening. My name is Al Riskowski, it's A-l, Riskowski's R-i-s-k-o-w-s-k-i, representing Gambling With the Good Life. I serve on their board. My point is just to give a little bit of history background, and I'm here opposing both LB971 and LB990. I, I would imagine many of you are aware, but just to-- in case you are not, the reason that sports betting is coming before us in states is because of a Supreme Court ruling recently. Back in the late '80s and early '90s, four states actually passed sports betting and it became alarming on a national level that this could change the nature of sports. And thus, on June 26, 1991, the Senate Judiciary Subcommittee on Patents, Copyrights, and Trademarks held public hearings on then Senate Bill 474. As a result, Congress found that sports gambling is a national problem. The harms it inflicts are felt beyond the borders of those states that sanction it. And to not read it in entirety, they in essence, they passed the Commerce Clause to enact the Professional and Amateur Sports Protection Act back in 1992. That held it-- held its way until recently when the Supreme Court overturned it on a technical reason. But it's interesting that the introducer, Senator DeConcini, stated that he and the cosponsor felt very strongly at the time. It is inappropriate for the states to trade on the goodwill of professional and amateur sports and, in the process, risk causing serious harm to the integrity of sports, adding that PASPA-- --s what they called this bill, represents a different and broader approach to the problem of sports gambling. Later, the Senate Committee, that's the United States Senate Committee on the Judiciary, wrote that sports gambling is a national problem. The harms it inflicts are felt beyond the borders of those states that sanction it. The moral erosion it produces cannot be limited geographically. And I think it's also very interesting that Chief Justice Breyer, when the Supreme Court overturned it on a technical reason, stated in his opinion, he said: Why did the Congress pass this bill? He said it's obvious. The answer is that Congress wanted to keep sports gambling from spreading. It feared that widespread sports gambling would threaten to change the nature of

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

sports events from wholesome entertainment for all ages to devices for gambling. So I thank you for your time today.

BRIESE: Thank you for your testimony. Any questions? Seeing none, thanks again.

AL RISKOWSKI: Thank you.

BRIESE: Next opponent testifier? Good afternoon and welcome.

MARK BONKIEWICZ: Good afternoon, Senators. My name is Mark Bonkiewicz. I live at 11129 Z Street in Omaha, Nebraska. I'm a former Farmer of America, was born and raised in Sidney, Nebraska, 350 miles west of here. Thank you for the opportunity to testify today.

BRIESE: Could you--

MARK BONKIEWICZ: I'm in opposition.

BRIESE: May I interrupt you, sir? Could you spell your name?

MARK BONKIEWICZ: Sure. I have the privilege of doing that a lot.

BRIESE: Thank you.

MARK BONKIEWICZ: B as in blue, o-n as in Nancy, k-i-e-w-i-c-z as in cat zebra.

BRIESE: Thank you.

MARK BONKIEWICZ: You bet. I'm here to ask all the senators on this committee to vote no against all three of the gambling bills that are before you and the LR295CA as well. Most people know the story about Robin Hood who robs from the rich to distribute to the poor. Expanded gambling is the opposite of Robin Hood because the casinos rob from the poor to make one person or one couple rich. Expanded gambling gives false hope to those who play the slots, various types of poker, or other games of chance. Many gamblers become addicted with the thoughts of, quote, I'm only one bet away, one bet away, one bet away from winning a pot of gold and it never comes in. You've heard for 25 consecutive years about the victims of gambling addictions, whether it's the gambler or the family members or friends or fellow workers or their employers. Every one of them suffers to the ABCs of expanded gambling, bankruptcy, child abuse, business closures, deception, theft, and suicide. I recently retired from a position that required

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

travel to the 31 largest cities of America, many of them in states that have casino gambling. My conversations with business associates in those cities and states invariably ended with the summary statement of: Oh, if only our state had been as wise as Nebraska and kept casino gambling out of our state, we would have saved a ton of misery. Please continue to use the same wise decision as hundreds of prior Nebraska state senators have done, which is to not allow any expansion of gambling in our great state, prevent the robbing hoods of the casinos in other parts of the industry from using false hopes of quick riches to bilk hard-earned dollars from our Nebraska citizens and leaving them in misery. Thank you.

BRIESE: Thank you. Any questions? Seeing none,--

MARK BONKIEWICZ: Thanks.

BRIESE: --thanks again for your testimony. Next opponent? Seeing none, any neutral testimony? Seeing none, Senator Wayne, you're welcome to close.

WAYNE: Thank you, colleagues. Thank you for the long, long testimony that we heard today. I'm not gonna spend a lot of time on closing because I want to get to the bill that I feel is really important to me. But I do want to point out to the individual from Washington, Senator Geist, last year through this committee, LB252, did add a truth statement so we don't market our lotto without truth. In fact, they went to the detail of having a certain number of font and size being used. Currently, there's no regulation on this industry, and we'll talk more about it. But to say that there's this false that they're gonna go to Florida, or they're gonna go somewhere else, that's just false. It's not that they're gonna go, they're already doing it. Anyone on this committee, we can go to my house, I'll, I'll-- then we'll pack up in a car and go over to the casino and you can just drive through and see the parking lot. They're already doing it, this isn't-- they will go. That's for another state where somewhere else, this is already happening. And yes, it's correct, it's now they don't even have to go across the river. So all this negative effect that supposedly is out there, which I'm not gonna say doesn't occur, I'm saying that we don't have any revenue stream coming in to offset that at all. We, in our constitution, give money away from our General Fund and lotto tax; that's what we do. We had a bill here last year where they were trying to increase it, but there is no offset on revenue. We need to offset the revenue. And as far as the comment, why youth-- why not youth in high school sports? I would tell you to stay

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

around for the next conversation, you'll see how sports betting and college sports are almost identical, in my opinion. But the reason you don't have high school and youth sports in any betting is because most of the high school and youth sports are volunteers and volunteer dads are not contracts. So there is the ability to manipulate and point shave, whereas college and above there is contracts, there is paid referees, there is a lot of other things that go to regulate those games versus youth in high school. But I just want to point out what was kind of funny, alcohol and gambling kind of go together. Well, one can argue-- I'm married, marriage and alcohol go together. That's, that's, that's not how we make policy decisions. And I just had to say that to lighten up everybody and make a laugh, because this is kind of a long hearing. So with that, I'll answer any questions or move to the next one at the Chairman's discretion.

BRIESE: Thank you, Senator Wayne. Any questions for Senator Wayne? Seeing none, thank you, Senator Wayne. And we have several letters, we have 1, 2, 4 letters in opposition from the area director for Fellowship of Christian Athletes Southeast Nebraska; Fellowship of Christian Athletes; Gary Nunnally, varsity boys basketball coach, Lincoln Christian; Director of Athletics at UNK. We have a letter in the neutral position from Global Market Advisors. And that will end our hearing on LB971 and we will then proceed to LB990. And Senator Wayne, you're welcome to close-- or open when you're ready.

WAYNE: Thank you. This is the bill that I am passionate about. And my name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. What we heard in the previous testimony had a lot to do with gambling. With all due respect, and I do feel sorry for some of the individuals who have suffered from gambling, by the definitions that have been laid out by multiple courts and by the, the own definition, by the Unlawful Internet Gaming Enforcement Act [SIC], the fact of the matter is fantasy sports, poker, and yes, sports betting are games of skill, not gambling. LB990 will adopt the Game of Skills Act [SIC] which would redefine fantasy, fantasy sports, various forms of poker such as Five-Card Draw, Texas or Omaha Hold'em as game of skills. Game of skills require more research, more knowledge, more strategy for a successful participation rather than just plain luck. It is important to distinguish that while there is still a degree of luck, the final outcome is influenced generally and most often by experience of the player, the experienced level of the player. Games of chance as Russian roulette, craps, slot machines which rely entirely on luck or

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

chance do not have that. In fact, most of those games, if not all those games, have some type of randomizing device such as dice, software, or some random ball dropping somewhere. It is a randomizing device. This is truly different than what we have. Fantasy sports require an in-depth knowledge of athletes to be successful participation and there's no real general randomization device involved in the game. We, as a Legislature, need to recognize the difference between slot machines and fantasy sports; to do so does it injustice. The fact of the matter is-- let's talk about fantasy sports. And for those who don't play-- I see Mr. Osborne left-- but let's talk about what a fantasy sports season looks like. Then I want to compare it to what really goes on or how we compare it to what it actually is. So you have a group of players, maybe a team, and you're in a league and you bet, put in a pool, not a gambling, but you put in a pool. And out of that, you go through each week looking on players that are hurt, looking on teams that you might match up against. You look at whether I can run a sweep option or maybe I have to do more drop back passes, maybe I might be able to run the ball up the middle. I don't know how their defense is, I don't know how their linebackers are. You actually study the game and study the opponent. And then at the end of that, sometimes it's based per game, but if you're in a season, at the end of it, the person who is the most successful out of that league collects the money. Now I ask you, what else does that look like? That looks like a college coach, that every week they are analyzing who to put in the game, who not to put in the game, what are the best matchups. And at the end of this, they get a bonus. They make it to, to the bowl game, they get a bonus. But nobody says that's gambling. But me pretending to be coach in a league somehow mysteriously becomes gambling because I win the same bonus, just a little less. We're doing the same thing, we're pretending we're coach. We're analyzing ins and outs of the game to making sure that what we can put down will win. We're looking at each player and, in fact, there's, there's dedicated stations to injury reports, who's feeling good, who has the stomach flu. Because all that piece of data that's out there goes into the decision of whether I'm gonna put that person in the game or not, just like any coach. That is the most simplest way I can explain fantasy sports, sports betting, that we are truly not random, but we're using data to make sure it's better, and that data comes from all types of knowledge. The fact of the matter is, I can bore you with court cases, I can bore you with definitions, but the fact of the matter is, is it's gonna happen in Nebraska. We can either do it and regulate it ourselves or somebody is gonna do it themselves, and it's gonna go to the Supreme Court and they're gonna say it's a

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

game of skill. And if that happens, we have no regulation. We've already seen it happen with BankShot. And in fact, Senator Briese has a bill this year to tax it. And the reason that was done was because it wasn't simply just a game of chance; there was the player's ability to influence, which removed that game of chance from a definition. And that's all that we're talking about when it comes to fantasy sports, sports betting, and including poker. You have people who study this, people who actually make a professional living out of it. And at the end of the day, the data is the data. You look at the fiscal note, the Department of Revenue needs an additional person. But in year two, we actually are out ahead. And I propose, not in this bill, but I propose the same 10 percent to 20 percent tax on this and the revenue would still be roughly the same. Can you imagine a couple of friends sitting around playing cards and playing a poker game? Yeah, we all imagine it because a lot of our friends do it. Should they be tried and convicted for a criminal offense? I see casino nights at churches all the time. Schools have casino nights. But yet nobody testifies against those things because oftentimes it benefits the same organizations that they're associated with. This is a way to bring property tax relief to Nebraska. This is a way to regulate an industry that is currently going on. I mean, we had a bill on Ducks Unlimited this year. We have bingo bills; that's OK. But somebody who dedicates their time and looks and studies what's going on in a sports league can't, we're missing out on all that revenue. I think it's wrong in the sense of, of we as a state need to do better. And then I'm just kind of disappointed that we, we, we at here oftentimes come up and we talk about we want to do what's best for low and poor income people. But yet I can't get sales tax on water taken out. Yet, we can't get real jobs created in north and south Omaha. Our \$720 billion goes to big corporations. I just have a hard time understanding that. Sometimes the worst thing we can do is not let the free market actually operate, and that sounds weird coming from me. But in this case, I want to open up the market and I want people to be able to do it in a controlled regulatory manner where we can provide relief to everybody. And with that, I'll answer any questions.

BRIESE: Thank you, Senator Wayne. Senator Moser.

MOSER: Well, I have two questions. One of them, how does this differ from the bill that we moved out before on fantasy sports?

WAYNE: So the difference is I also include sports wagering and poker. Those are bills--

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

MOSER: OK, they're all in one bill you mean?

WAYNE: Correct. Because when I looked at Senator Blood's bill last year and through the summer, when you look at where some courts are going around sports wagering, what's considered a, a ,a game of chance versus a game of skill, the analysis is the same. And fantasy sports and sports wagering are almost identical and the case law suggests it is, so why not include all those?

MOSER: Is there a taxing mechanism in this bill?

WAYNE: No, that's one of my--

MOSER: Any other bill there is a taxing mechanism.

WAYNE: Well, that's one of my errors in drafting, but that's OK, that's a simple amendment. I do think there should be, and even if I would've included it in the bill, I would've had a XX number. I do that with all my taxing bills because I think it's up to the committee to come up with a better number. I hate doing a number, and then we think that's the fiscal note, and then we run into an amendment where we don't get a fiscal note until it goes on the floor. So I don't pretend to know the answer, but I do know roughly what 10 percent and 20 percent of sports-- for its sports wagering looks like based off of Iowa's number, and we're talking anywhere from \$13 million to \$20 million a year.

MOSER: And how do you respond to the preacher before who said that the poorest of the poor gamble and that, you know, that we're preying on the impoverished when we allow gambling? I mean, to listen to him, the loss there would be a lot more than what we're gonna save by exempting bottled water from sales tax.

WAYNE: Well, there's a couple of things I would, I would challenge you: first, it's always fun having my grandmother's preacher come out against the bill; two,--

MOSER: Is grandma gonna call you?

WAYNE: She probably will. But two, the reality is there's an assumption there that poor people always gamble. There's an assumption there that that's who this is targeting. I would tell you that I disagree with that assumption. I will tell you that there are hardworking people who may gamble, there are rich people who may gamble, and there are poor people who may gamble. They all hit the

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

same. But the reality is, when it comes to this, this isn't going over and shooting the dice, this is you learning how to be a coach, this is you learning cards. You're not gonna put 50 bucks on a card game if you know you don't know how to play cards, poker. You're not gonna wager bets, just to wager bets. You, you-- when you get into fantasy sports and you get in league play, which most of them are, it's through an entire season. That is a different person than your average person who goes over to the casino. And the reality is the casinos are right next door, not even across the river anymore. So it's already occurring, so I don't, I guess I don't understand, it's already occurring.

MOSER: Well, I just-- and the reason I put you on the spot to ask you that question is because this morning we were just having that discussion about people not being able to pay for water because it's taxed and, and drinking water you didn't think should be sales taxed, and, and then somebody who comes in to testify says, well, we're squashing the poorest of the poor by giving them more opportunities to gamble.

WAYNE: So I'll answer that question or I would answer-- or reply to that statement very simply, if we want to be consistent about helping the poor, there's plenty of things we can do, like Medicaid expansion. So if we want to help offset costs, there's a lot of things we can do. And this, this --we can have that conversation, but I think we need to be consistent. That's all I've been saying from day one, we should be consistent. As far as water, manufacturers and farmers don't pay sales tax, I don't think necessarily the city people should have to pay sales tax, too. That's, that's being consistent.

MOSER: OK. Thank you.

BRIESE: Thank you, Senator Moser. Senator Arch.

ARCH: Thank you. Senator Wayne, one of the, one of the statements that I heard in, in the previous bill was in order for the, in order for the state to win, the citizens have to lose. Is that, is that true of these forms?

WAYNE: No. Again, this is a game of skill. If that's the case, we can say sales tax in general is bad. In order for the state to win, we have to have people who go out and shop, impulse shoppers. I don't think we, we think about it that way. I don't think this makes any difference. I think the problem we struggle with when it comes to a

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

game of skill is for so long, many of us thought sports betting, poker, fantasy sports were gambling, but scientifically, it's been proven otherwise. So I think we're having a hard time understand-- getting our head wrapped around that it's not gambling.

ARCH: I would just make one other comment that, that your comment about placing a, a bet on poker, there, there probably are people who have placed a bet on poker who think they know how to play poker. Right?

WAYNE: That, that is probably true, but it doesn't change the ability to influence. And we have to look no further than the stock market. We really don't. I mean, there are people, who once TD Ameritrade and other people opened up where you can buy your own and trade your own penny stocks, there are people who thought they knew how to judge a stock market and lost. But we allow that and we allow it because we consider that a really a game of skill, study the market, become an expert in the market, and you should be able to succeed in, in the market because it's not always random, there are ebbs and flows you can watch and move. And I would submit to you that every college football, every college basketball, every college coach banks their entire contract off of this to be able to look at players and determine lineups and be able to do that.

ARCH: But wouldn't you make, wouldn't you make one distinction there? And that is that a college coach can influence the game, whereas somebody playing, playing fantasy sports or whatever really has no ability to influence the game. In other words, the decisions made actually can score a touchdown. You put the right receiver in, you put the right quarterback in, you can, you can influence the game. And I don't mean that wrongly, but I mean, you're the coach.

WAYNE: No, I guess you're proving my point, because before that Saturday game, I'm looking at my lineup and I'm seeing their defense player's healthy. I'm looking at every matchup, is this a team that rushes four or they rush three. How is their tight end-- I mean, their defensive end? Is he healthy or is his knee still bothering him? All the same things that go into that coaching decision goes into that decision. And there's some leagues in which you can move people out at halftime and make the exact same adjustments, so it is, it is, it is identical. And you know what's even more identical, the players don't get paid.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BRIESE: Thank you, Senator Arch. Senator Brandt.

BRANDT: Thank you, Chairman Briese. And thank you, Senator Wayne,--

WAYNE: You got to work that in there.

BRANDT: --for bringing this bill. We really don't set up any gambling bans, any casinos or anything, all of this action has to take place like on the Internet, on like DraftKings or FanDuels. It has to be on an established gambling venue on-line. Is that correct?

WAYNE: It could be on-line, there, there could be a physical location, that would be up to the Department of Revenue. How I envision this is the same way as what we would envision BankShot, but I think a lot more restrictions. I don't think the Department of Revenue is gonna-- and I'm open to any amendment to limit the number. I'm open to the limit-- to limit the number of how these are like we do at BankShot, you can't have so many per square foot. I'm willing to do, you can't have so many per congressional district. It doesn't bother me. I'm open to anything regarding physical locations. But we can't ignore; on-line is gonna happen. It's, it's gonna-- I mean, it's happening now.

BRANDT: But it would have to be in a format that could be taxed.

WAYNE: Correct.

BRANDT: Yeah, because if you and your buddies just set up a little league over here on your own, it's outside the scope and venue of what you're proposing.

WAYNE: Correct. And I will tell you that people who maybe engage in this activity right now underground, they're OK with paying taxes and would love to be legit. I mean, we've seen that in every industry, whether back from Prohibition, people who were doing alcohol, they came back and put an extremely high alcohol tax on it, they're saying, that's fine, I just want to be legit. I think that'd be no different than here.

BRANDT: All right, thank you.

BRIESE: Thank you, Senator Brandt. Any other questions? Seeing none, thank you, Senator Wayne. Any proponent testimony? Any opponent testimony? Good afternoon and welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

AL RISKOWSKI: Good afternoon, again. Al Riskowski, A-l and Riskowski's R-i-s-k-o-w-s-k-i, representing Gambling With the Good Life. Just a quick comment in regard to this bill-- years ago I was executive director of Nebraska Family Alliance and did quite a few testifying on various bills. It wasn't that long ago that there was an attempt to identify poker as a game of skill, and it failed in the Legislature because when you get into the weeds of it-- and you can go back and look at that attempt-- it gets much more complicated than a simple game of poker. There are so many types of poker and descriptions of poker that it gets quite complex. And because of that complexity, it did fail. I just want to remind the Legislature of that. And secondly, when it comes to sports betting, of course, all the testimony that came before me in regard to the dangers of sports betting would apply to this, whether you define it as a game of skill or not. It's still-- the great concern is that we change our sport games from just entertainment to an avenue for gambling and all the concerns that were before me in regard to that. So I thank you for the time and the lateness of the day, and I'll cut it short right there.

BRIESE: Thank you for your testimony. Any questions? Seeing none, thanks again--

AL RISKOWSKI: Thank you.

BRIESE: --for your testimony. Next opponent? Good afternoon and welcome.

JENISE BROWN: Good afternoon. Jenise Brown, J-e-n-i-s-e B-r-o-w-n. I just wanted to continue a little bit on-- I have learned so much about gambling since my experience. And when my children would come home in high school and they, and they would have-- I would have an issue with what was, you know, had happened with their friends. And they would say to me, well, you know, Johnny's parents didn't care that I drank alcohol at the party. Why, why do you guys have a problem with it? It's the same analogy. Somewhere there has to be a line in the sand that is protective of the citizens of the state of Nebraska. And whether people choose to cross it or not is an individual choice. But as a legislative body, to legislate something and give people permission to make it easier for youth, to make it easier for my kids, to make it harder for me as a parent, to make it harder for me to know whether my college-age kid in college is gambling away his college funds when they have an app on their phone. It's a casino on their phone. The sports, the sports fantasy sports, young boys, I can see just absolutely, probably would enjoy that. And for me as a mother, to

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

know whether my two college-age kids are doing that on more than a daily basis and probably should be spending their time on their homework, that would be very difficult for me as a parent when they're not even in my home. I really urge you to, to not be the legislative body that makes this easier, and harder for parents to raise their children, because that's what this would be. I have a son that is 29 years old now and is coaching at ECU, university football, and he just wrote-- is applying to a Masters Program, and he just wrote a paper, a special interest paper in order to get into the Master's Program, and he chose-- it's a liberal arts college and he chose an emphasis in psychology. And his paper was written on addiction and, in particular, gambling addiction because of his experiences that our family has had. He has not, he has not had the support of two parents financially in the last few years, and neither has my other younger son, because we were strapped and that wasn't fair to my children. And it was because of gambling and it was because of it is legalized in Iowa. Just because it's legalized in Iowa doesn't mean that we should do it here. Just because Johnny wants to do it doesn't mean that it should be OK for my son to do it. OK, at some point there has to be a moral compass and there has to be what's best for the citizens of the state of Nebraska. It has to be-- look at the moral value versus making money. That's what this is about, is making money and making it easier for the state of Nebraska to make money. And so please choose, please choose the right path and vote against all of these gambling bills.

BRIESE: OK. Thank you for your testimony.

JENISE BROWN: Thank you.

BRIESE: Ma'am. Have any, any questions? Seeing none, thank you. Thanks, again. Next opponent? Good afternoon and welcome, again.

NATE GRASZ: Thank you. And good afternoon, again, Chairman Briese, members of the committee. My name is Nate Grasz, N-a-t-e G-r-a-s-z, policy director for the Nebraska Family Alliance. And I'll be brief, we are opposed to this bill for the same reasons as given in my previous testimony and wanted to appear on the record as being in opposition to LB990. Thank you.

BRIESE: Thank you. Any questions? Seeing none, thanks again.

NATE GRASZ: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BRIESE: Next opponent testifier? Good afternoon and welcome.

LORETTA FAIRCHILD: Thank you. I sure hope you will ask questions because I have different things for every one of these and I am opposed. My name is spelled-- my name is Loretta Fairchild, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d. How is it in the best interest of our state to put its very scarce resources, including time and energy, into helping the on-line betting industry challenge the Federal Wire Act? When federal legalities are settled, then can't Nebraska decide where it wants to fit in? I do appreciate the improved level of precision and detail presented this time around, but the inherent objections from the viewpoint of the state as a whole still exist. Having no criminal history to get into this business is no guarantee of good conduct. Just look at major U.S. banks who abuse their customers and their employees and you'll see reasons for skepticism. The first application fee of \$10,000 is a drop in the bucket compared to the revenue streams. Annually, it mentioned 6 percent of gross revenues, but it's capped at \$10,000 and it doesn't explain if those gross revenues are from all their betters or just from those in Nebraska. Even worse, Nebraska is to assume the responsibility of setting up all the rules and regulations. The prevention of practice is detrimental to the public interest and to safeguard the integrity of games of skill. Why isn't that the responsibility of the operators, the companies who want to make all the money? Which Nebraska taxpayers will be happy to pay for much higher wages to bring in enough computer techie people to even begin to create such a complex set of software? Our nation can't even figure out how to safeguard the integrity of our elections, and Nebraska is supposed to take the lead? Linking the proceeds to reducing property tax levels for schools is a red herring and it-- asked me about what they used to be, the three E's, and it violates all the basics of good tax policy. Schools keep telling you they need stable, dependable financing. Do you believe that sports betting will provide stability? This is special interest legislation at its worst. I hope someone will ask me about that so I can clarify. And I hope you care about transparency in government enough to not take any action on LB990 until all these problems have been cleaned up. Please don't use this bill to trade votes with other senators on the more important ones. And instead, just do what is right for the state as a whole. There is no urgency around this issue, so please just keep it in committee. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BRIESE: Thank you. Any questions from the committee? You, you referred to special interest legislation. Why, why did you characterize it as that?

LORETTA FAIRCHILD: Thank you. The reason is [INAUDIBLE] while I flip pages. Use the Horsemen for slot machines as the framework, that's really what this is all about. The Horsemen are on record forever as to who's gonna-- who they want to profit from bringing in the slots. Who is the equivalent of the Horsemen's Association in this legislation? That's the missing piece in both of these two bills.

BRIESE: OK.

LORETTA FAIRCHILD: We have no notion. We see lots of damage to the state of Nebraska. We see no word on who is going to be this direct connection that this legislation is carrying the water for.

BRIESE: OK. Well, thank you very much for your testimony.

LORETTA FAIRCHILD: If I ever get a chance later, I'm the one that can talk about regulation and the relationship between illegal gambling and legal gambling.

BRIESE: OK. Thank you.

LORETTA FAIRCHILD: Thank you.

BRIESE: Next, next opponent testifier? Seeing no one, anyone testifying in the neutral capacity? Seeing no one, Senator Wayne, you're welcome to close on LB990.

WAYNE: Thank you, Chairman Briese. Now everybody knows what it's like to be on Judiciary. There's a couple of things. Typically, how this is done in other states, is that the Department of Revenue in this case-- but in other states it was the Department of Treasury, I believe in New Jersey-- they would send out a RFP. And what they would do is they would create a baseline system throughout the state that would be their platform from that RFP, and that would be your on-line portion of what we're talking about. Actually, everything would run through that on-line portion. So that's not in the bill because that would be special legislation. Department of Revenue or Department of Treasury or, in this case, Department Revenue would have to set up that framework through their rules and promulgation. And, and the reality is this isn't gonna happen overnight. Even if there was an emergency clause, the Department of Revenue, according to their fiscal note,

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

need extra people. It is plus on the-- just on the fees alone. And we don't even talk about the taxes that can come in from that, which would be a windfall for the state. The reality is, is there would be an RFP, this would take time, this would take a framework. But either we can do it now or we can continue to lose revenue. And I just have a hard time when this property tax debate's gonna to come to the floor, not looking at sources of revenue and having to cut. We want stability-- well, we might have a plus right now of \$100 million, but that's not gonna be there forever. Maybe that should all go into the rainy day fund and not property tax relief. I don't know. I know that I keep hearing about property tax relief but we're not hearing about new revenue sources. This is a new revenue source that I think we should explore. I definitely think it should be debated on the floor. With that, I'll answer any questions.

BRIESE: Thank you, Senator Wayne. Any questions for Senator Wayne? Senator Moser.

MOSER: Toward the last half of this bill, looking through the text, there's mention about the tax levies for schools. Why, why are those parts included in the bill?

WAYNE: Oh, that was Bill Drafting and myself. So what we wanted to do was create a sales tax that would go directly to, directly to the school fund, which is where I think property tax relief is the easiest way to, to do it. And so by not including them and trying to amend it on the floor, that would be not germane to this committee. By having it here, whatever tax we decide we want to put on it could go to this amendment, to this committee and the sections are opened up. That was the thought process behind it.

MOSER: OK. Thank you.

WAYNE: So, yeah.

BRIESE: Thank you, Senator Moser. Anyone else? Seeing no other questions, thank you for being with us here today and bringing that bill. Letters for the record: I have four letters in opposition from the same individuals and groups that submitted letters on the last bill; one letter in neutral capacity from the same group that submitted a letter on the last bill. With that, we'll close the hearing on LB990, and we'll open the hearing on LR, LR295. And you're welcome to open, Senator Wayne.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

WAYNE: Thank you, Chairman Briese and the General Affairs Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and this would be the last bill today on gambling, and this is truly a gambling bill. I represent north Omaha, District 13, north Omaha and northeast Douglas County. This is a simple amendment that goes to the vote of the people. We talk about whether or not the people want it. We hear testimony from people saying this is not good for Nebraska. Well, let's put it to the vote of the people, let Nebraska decide. Do they want it or do they not want it? And there's a mechanism by which this body can do it, by voting this out of committee, voting it to the floor, and it will be done. I will tell you that the reason there is not a property tax solution to this amendment is I believe anything besides this amendment violates the single-subject rule. And if you don't know what that is, it's very complicated, but you can only have one subject on the ballot. And the Supreme Court-- actually, through the Horsemen's amendments have had a lot of case law that basically says this deals with gambling; property taxes is a separate issue. So what we would do is put this before the vote of the people and then the revenue that comes from that would go to our General Fund. And we as a body can decide what to do with that because we can't combine it into one constitutional amendment. It's called the single-subject rule. But gambling happens, it's across the river-- not even across the river no more, it's literally a drive in my district. So in our constitution, in the same section, if you read it, we spend \$500,000 per year towards Gamblers Anonymous, gambler assistance fund. And again, we, we receive no benefits or no revenue from it. So this would open it up, it would regulate, allow us to regulate and tax game of chance, lottery, or gift enterprise. With that, I will answer any questions.

BRIESE: Thank you, Senator Wayne. Any questions? Senator Moser.

MOSER: So if this bill is presented to the voters and they approve it, does that accomplish the same thing as your other bills on gambling or does it all have to pass in order to--

WAYNE: Well, first I would-- no, first, I would tell you that the game of chance is not a-- game of chance is not the same as game of skill. But I know that's a technical definition, but it matters in the courts. Second-- and that's the last bill that we just had, second, this bill is just enabling the Legislature to put parameters and regulate it. My previous bill on game of skill puts in regulations outside of this because we're saying it's not even a game of chance,

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

it's a game of skill. So that puts regulations around there. We would still have to come back and put, put regulations around it. Right now, there is no gambling set up in Nebraska. So once this passes, this just says the Legislature may authorize it. That doesn't mean we have to, that doesn't mean that it's currently legal, just gives us the authority to do something later.

MOSER: OK. Thank you.

BRIESE: Thank you, Senator Moser. Anyone else? Thank you for your opening. Any proponents? I would say good afternoon and welcome, but I think it's officially evening so good evening and welcome.

JIM SCHULTZ: I was going to say my prepared statement starts out good afternoon, but I think I'll have to edit that. Thank you, Senator Briese and the rest of the committee for your time. I ask this, this testimony be entered into the public record. My name is Jim Schultz, that's J-i-m S-c-h-u-l-t-z, and I am the vice chair of the Libertarian Party of Nebraska. And I come before you to speak in favor of the measures before this committee. The bloody lesson of Prohibition is that government bans do not work, they only result in the creation of black markets and criminal enterprises. This is true whether we're talking about alcohol, guns, abortion, money in politics, or as we are here to discuss today, gambling. The state of Nebraska is facing a criminal justice crisis with court-ordered reductions in prison populations looming in the next few months. The solution to this crisis is not to build more prisons, but rather to take a hard look at the laws which criminalize voluntary interactions between consenting adults. These measures here today are but a first step on this path. The Libertarian Party of Nebraska supports the rights of individuals to exercise their own free will in participating in games of chance. It is only through legalization that their rights and interests, while doing so, can be protected by the state. As a party, we neither encourage nor discourage participation in games of chance, that is a decision left to the individual. But we stand steadfast in our opposition to the use of the criminal justice system to enforce the will of some on free citizens. The abolishment of restrictions on voluntary actions by consenting adults is a fundamental principle of the Libertarian Party. On behalf of myself and the 15,000 registered Libertarian voters in the state of Nebraska, I urge you to pass these resolutions. And with the remainder of my time, I'd like to point out that every, every horror story that was presented today happened with gambling being banned. It's happening. It's here. It's now. And I'd

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

also like to point out that Robin Hood did not steal from the rich, he stole from the tax collectors.

BRIESE: Thank you. Any questions? Seeing none, thank you for your testimony. Next proponent? Seeing none, next-- or excuse me, we'll switch to opposition testimony. Good evening and welcome.

AL RISKOWSKI: Thank you. It's good to be before this committee once again. My name is Al Riskowski, it's A-l and it's-- Riskowski's R-i-s-k-o-w-s-k-i, on the board and representing Gambling With the Good Life. I don't believe that the citizens of Nebraska are ready to hand over their ability to help regulate gambling. And gambling is one of those areas that is a privileged activity. And I'll just read one of the paragraphs, as businesses that can have harmful effects on the health, safety, and welfare of society, privileged activities may be subject to greater state control than businesses that are benign or useful. In permitting a privileged activity, states have the power to establish extensive conditions regarding the form it may take and the persons who may participate. I just find it interesting that in the state of Florida they have actually done the reverse. It seems to be the will of the people not to give away their ability to decide, but to take it back. And a good example is Florida, and I'll just read that paragraph: that the will of the people is to make gambling expansion more difficult, not easier, and that is the state of Florida, Florida. Article X, Section 30 of the Florida Constitution approved by Florida voters pursuant to the ballot measure known as Amendment 3, Article X, Section 30 entitled "Voter Control of Gambling in Florida," It grants Florida voters the exclusive right to decide whether to authorize the expansion, in this case of casino gambling in the state of Florida. This constitutional amendment, which became effective on November 6, 2018, requires a vote pursuant to a citizen's initiative, basically another ballot question in order for casino gambling to be allowed under Florida law. It essentially strips state lawmakers of the legislative power to authorize casino gambling and makes a citizen initiative the exclusive method for doing so. I believe here in the state of Nebraska, we like the way we have it set up into our constitution. I don't believe that our citizens are willing to give up that ability to vote on expanded gambling here in our state. Thus, I oppose this particular constitutional amendment. Thank you.

BRIESE: OK. Thank you for your testimony. Any questions? Seeing none, thank you, again.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

AL RISKOWSKI: All right, thank you.

BRIESE: Next opponent testifier? Good evening and welcome, again.

JENISE BROWN: Jenise Brown, J-e-n-i-s-e B-r-o-w-n. I'm gonna use every three minutes I can get because I took the day off to be down here. I'm not willing to give up my right to vote against gambling in the state of Nebraska. And I want that right. And I think I've earned that right because I've paid a huge price for it. And I'm not gonna give a six-member board or however member-- many members they plan to put on this board and stack it with pro-gambling people to take that right away from me. And so I really urge you not, not to do that. I, I, I want to retain my right to at least make my vote. I will tell you that the lady that, that destroyed my financial well-being won \$12 million in one year. So imagine the addiction that happened there. That grooming, grooming of \$12 million in one year happened over a series of years prior to that. And they were very well aware of her addiction-- \$12 million dollars in one year, imagine the addiction. And that is what we're glazing over here today is the addictive factor here. That same year, she lost \$14 million. She did not have the ability at that point in her addiction to realize that she was really losing. And so that \$2 million came from me and our company. And she, she continued for the next year to, you know, lose some money, but that was, that was the biggest year. And her addiction grew. She, she stole from us the very first month she worked for us. She was recommended to us by a CPA. So our CPA referred her to us as a controller. So it's not like we just picked her off the street to, to handle all of our finances. And, and so the very first month that she was in our employment, she started low numbers, gambling. She was, she was gambling and had this addiction, but she started stealing from us in low numbers. She had already stolen prior to us, like I said two other companies and also her family. And so this is a ripple effect. The addictive factor in the addiction that people bring to gambling ripples, it ripples. I'm, I'm not the gambler, I am the secondary, I'm the secondary, and my kids are the third circle out, and my friends are the fourth circle out, and so it-- and my community, and I used to give back so much to our community. And that has come to a dead halt, because now all of my energy has to go towards, you know, recovery. So, so much-- I, I just want you to realize the addictive factor that happens here. And once you legalize it, you're gonna see this across the state of Nebraska. They talked about, they talked about location. The people in the western part of the state have to drive clear to wherever, hours, like they said, to get to a casino. If you legalize

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

this, it's across the street. And so it makes-- you're gonna find addiction to gambling rise right along with any income that the state may get. So, thank you, that's all.

BRIESE: Thank you. Any questions? Senator Moser would have a question here.

MOSER: Well, at the risk of tearing the scab off of your injury here,--

JENISE BROWN: It's, it's pretty--

MOSER: I'm just curious, how did she embezzle that money and how did you not notice it?

JENISE BROWN: We paid-- just, just so you know, that company-- and I actually should have said this before, paid \$60,000 a month in taxes to the state of Nebraska. That didn't include income tax and it didn't include sales tax. OK, so that was just tobacco and cigarette taxes. And so in order-- the way it's set up to buy tobacco-- or cigarettes, there had to be a holding account in the company. And you're talking to-- I was not involved in the accounting at that point, but this is my understanding, there had to be a holding account because you had a prepay for all those cigarettes. So that holding account, she moved money around. There wasn't awareness that, that-- so the company was doing well. Prior to that, the company had been growing and it was doing well. What happened was they didn't-- because of the way she was moving money around, they did not know how well it was doing. It was doing really well. She also was-- on the bank statements, she also was-- because of the software she was able to-- from the bank, she was able to over-- overwrite some of the descriptions of the checks that were going through. So she would overwrite it and make it look like we were paying for cigarettes, and then she would put that check into the cigarette holding account.

MOSER: So did you have overdrafts then or did you have--

JENISE BROWN: No, no, no, but there wasn't awareness that the-- but it took-- we had to hire a forensic accountant to come in and do a forensic analysis. Now--

MOSER: Was she not paying the tax to the state or the--

JENISE BROWN: She was-- no, she was paying, she was paying everything. We-- the company paid-- until the very last three months, and don't--

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

please don't quote me on the numbers on this, because I wasn't involved in the business at that time, but the very last three months is what caused an issue for that company as far as any taxes. Everything else prior to the last, the two years that she was stealing, she was paying it all. And that's why I say the company was doing well. It was paying its bills. Everything was, you know-- but she made it look like, you know, the company was doing well when it was really doing way better than she made it look. You know, she could get by with it for a little while. Eventually it starts showing up, you know, and you're wondering, well, what is she doing and where is it going? And what's-- you know, this is complicated and it's more complicated than I can give it to you. But the first, the first thought process behind where is the money going? Because we knew there was a shrinkage, you know, in the profit margins or whatever. But the first thought process behind it was cigarettes, because the Legislature has decided to tax cigarettes so highly that cigarettes were going somewhere and somebody was stealing cigarettes versus money. And so, you know, we thought, oh crap, we got to start watching for cigarettes going out the back door. You know, what's happening? Are they selling them on the street? Well, that wasn't what was happening. It was really she was stealing and writing herself a check and then making it look like she was paying Philip Morris, for instance. So you know, you can do that for a while and I don't know why-- it's, it's the addiction, she-- I don't know why she thought eventually that she wouldn't get caught. You know, eventually you do get caught. And we hired a forensic accountant, and that's who found the issue.

MOSER: OK. All right, thank you.

JENISE BROWN: Yeah.

BRIESE: Thank you, Senator Moser. Anyone else? Senator Lowe.

LOWE: Thank you, Chairman Briese. And thank you for being here today. You started on how it affected your community and can you continue on with that?

JENISE BROWN: Yeah. You know, I used to volunteer a lot in my church. I used to volunteer a lot in my community, my school-- my kids' schools and that time-- you know, now is, is taken. And I have to spend it trying to recoup my retirement, of which I have-- I'm now one of those people that fall in that category of no retirement, no savings. When I spent 30 years of my life doing the right thing, I

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

ended up being one of those people in that category of 1.-- whatever billion dollars in the state of Nebraska that has evaporated. So because of that, the whole dynamics in our family has changed from not being able to volunteer, not being able to help others, to having to help my own self and my own kids. So that's how it changed for me personally. You know, I'm trying to get back to that. But there's a whole emotional recovery that happens with that that you can't imagine. You can't imagine the stress that's been put on our family. And, and I wouldn't wish it on anybody. I can talk to-- we had people after this happened to us, calling us just out of the blue, introducing themselves to us, saying this happened to me, this happened to me. A lady from New York, this happened to me. A hairdresser, you know, this happened to me. My, my mother telling me, you know, my friend Mary has a friend that, you know, is, is gambling away their whole-- her whole inheritance. And she was just telling me more of that story the other night. That has become something in my life that I really would not-- don't want. I really, I really don't want to be here today. The reason I'm here is because I feel like I'm a believer. And I feel like Jesus-- God has called me to step up and, and give them a voice. Give people that this-- has been affected, the industry has affected them and preyed on them, give them a voice because they have been shamed to not speaking up, they're embarrassed, they, they did this to themselves and their family, their family is embarrassed so they won't come down here and speak about it. And I, and I feel like, you know, Les has-- Les Bernal that was here earlier has educated me so much and so has Pat Loontjer educated me so much really in how this affects communities. And if-- I never would have guessed that gambling, you know, my friends still-- I still have to educate them on it because they're not educated-- people are not educated on how serious an addiction this is and can be. So--

LOWE: Thank you, Miss Brown.

BRIESE: Thank you, Senator Lowe. Anyone else? Seeing no further questions, thank you for your testimony.

JENISE BROWN: Thank you.

BRIESE: Next opponent? Good evening and welcome, again.

LORETTA FAIRCHILD: Thank you. My name is Loretta Fairchild, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d. And I meant to start by saying I want to thank each of you senators for your hard work and dedication to creating good government for all of Nebraska. You're still here. As an

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

economist, I would like to remind every senator that each action you take will create both economic costs as well as economic benefits together. Those in favor of this choice have presented every benefit they can think of through the years and you have listened. Now it's time for you to also listen carefully to the list of costs and to weigh both sides as you evaluate the impact on Nebraska as a whole. And you've heard a lot today that needs to get in the balance. The benefit of not being an early adopter is that we can learn from the experience of other states who came in after New Jersey in the 1990s. Each state was promised the same benefits. So are you as puzzled as I am as to why over the years you have never heard the proponents say, let's copy X state, they have gotten wonderful results, let's do what they did? So I can tell you why, if you'll ask me. Do you think they would be keeping that a secret if there were a clear case of solid ongoing streams of blessings? There is no great state example. Could it be that other states actually do show that the total of the problems has turned out to be bigger than the total of the benefits, just as the economist first explained 20 years ago? I am leaving one set of handouts after this that I hope will-- 12 copies will reach the committee. Where is that chant, keep the money in Nebraska, coming from? It's been around forever. It is sure not based on economic reality. Back when this first came up, 40 Nebraska economists put together a list of all the extra costs and the extra economic benefits. And that's in my packet to reach you. I'll leave it with you today. It's not glamorous, but it is factual and saying keep the money in Nebraska doesn't make it true. It is necessary-- for that to happen, it is necessary that the owners who get the profits be all permanently located inside Nebraska. But who actually owns each casino, regardless of which state it sits in, is a carefully guarded corporate secret. But in the vast majority of cases, the actual owners are the Nevada-based companies. They sign up a few local people who get well-paid in order to appear local. But you can be sure the bulk of the profits are leaving and heading back to those Nevada-based companies, no matter which side of the river the casino is sitting on. Please vote based on reality, not slogans.

BRIESE: Thank you for your testimony. Any questions? Seeing none, thank you, again. Any other opponents? Good evening and welcome.

PAT LOONTJER: Thank you. I didn't intend to testify today. I'm Pat Loontjer, L-o-o-n-t-j-e-r, 2221 S 141 Court, Omaha, Nebraska. I'm the executive director of Gambling With the Good Life for the past 25 years. I keep waiting to let them let me retire, but it doesn't look

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

good. But I-- as I was going through my records and, and we were lining up the, the testimony today, I want to thank you, Senator Briese, for allowing us to do this in one day. I appreciate your patience. I know this has been exhausting, but it was, it was so beneficial for, I think, everybody to just get this all over it at once and to see how it, it goes. But while I was going through the files looking for information and I came across this, and I want you all to have a copy of it when I leave. And it, it particularly pertains to the change in the constitution. This was written in 2004. The authors were Tom Osborne and Ernie Chambers, and they wrote this op-ed piece. And it starts off by saying what does a former University of Nebraska head coach-- he was a Congressman at the time, named Tom Osborne-- have in common with an outspoken independent state senator from Omaha named Ernie Chambers? Many people might scratch their heads at what seems like an absurd question, then answer emphatically, nothing. Well, they would be wrong. And it goes on-- are all the points of why they were opposed. And that case, it was a-- it was to change the constitution and allow casinos in. And it's, it's really an excellent piece and it's one that we've cherished for years, and I just wanted to make sure that you all got to see it. They brought up points about the constitution is-- it's not perfect, but it's something that has, has stood for years, it's protected Nebraskans against the exploitation of, of expanded gambling. And it's a very serious thing to consider changing a constitution. It goes on to state how it affected Iowa at that time, when in 2004, it said that there had already been \$132 million in social costs that would result with the expansion of gambling that, that was an Ernie Goss study that if we would consider that. It talks about the 25 percent of gamblers' spouses reported abuse, 25 percent of gambling addicts had lost their jobs due to gambling, 57 percent had resorted to theft to finance the gambling habit. And it said this is not what we want to see befall Nebraska. We hope and believe that people who inform themselves regarding the negativity of the casinos and the slot machine will share our position. In conclusion, our odd couple alliance demonstrates that this is not a liberal, conservative, black, white, rich, poor issue, but rather a matter of quality of life. So I want to leave you with this at the end and thank you for today and for the patience that you showed.

BRIESE: Thank you for testifying. Any questions? Senator Lowe.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

LOWE: Thanks, Chairman Briese. And I'll try to make this brief. Do you know if Ernie Goss has made any other studies on gambling since the--

PAT LOONTJER: No, not that I know of. We're in touch with Ernie on, on a regular basis, and I don't know. The study that he did in this case was ordered up by the Chamber of Commerce. And, and so I don't think until it actually would get on the ballot or it would become that they'd be willing to put up the kind of funds it needs to get Ernie to do a study.

LOWE: OK. Thank you.

BRIESE: Thank you, Senator Lowe. Any other questions? Seeing none, thank you for your testimony.

PAT LOONTJER: Thank you.

BRIESE: Any other opposition testimony? Seeing none, any neutral testimony? Seeing none, Senator Wayne, you're welcome to close.

WAYNE: Thank you, Chairman Briese, I will be brief. By allowing us to go to the vote of people does not give up your right to vote on this issue. In fact, you have to look no further than the death penalty. The Legislature passed a statute, it went to the petition, people voted on it again. The way our constitution is set up, there is always the ability to check the Legislature through a vote of the people. If we think we know what's best for everybody, that's fine. I think that at a minimum we should put this to a vote of the people. I hear often from this body, not just this committee, but from this body, about personal responsibility. But when it comes to gambling, we throw it out the window. We talk about all these horrors that may or may not happen if gambling or gambling doesn't exist. But I think it's ironic that the Libertarian in the crowd pointed out all this happened while there was a Prohibition on it. If it happens, it happens. We have things that happen all the time throughout society that we still allow to keep moving over so we can regulate it and find ways to make it better. All I'm asking for is a vote of the people, put it out, let the people decide. If we don't want to make that decision, let the people decide. We do it all the time on the other things. I believe there's other ballot initiatives that are already on the ballot. I believe that there are things that our body voted to put on the ballot: one being removing slavery; one being extremely blighted; there's current debate on whether we should go to 55. There are things that go on the ballot that I'm OK with, things that I don't disagree

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

with-- or things I do disagree with. But at the end of the day, we are losing revenue streams. We want to continue to compare ourselves to other cities or other states. And oftentimes we compare it to Iowa. They have revenue streams that we don't have. Either we're gonna have a real conversation about property taxes and revenue streams or we're gonna to continue to try to cut our way into prosperity. And that has been shown not to work. So instead of taxing people or increase taxing people, we can have the conversation around different revenue streams. And this is one way for us to do that. Otherwise, any property tax bill that we pass is limited to the one or two years that we have extra funds. Otherwise, we're back to the same way we came in-- when I say we, the people who came in with me where we had to cut almost a billion dollars out of the budget because we don't have any new revenue streams. That's gonna happen again. If you look at our revenues, they're up every four to five years and are down two, they're up every four to five years and they're down two. That's historically. So whatever property tax we want to pass for this election cycle, pat us on the back. And if we're reelected four years from now, we're probably gonna be in a down cycle and we won't have any new revenue streams. That's a problem. Let's have the broader conversation about revenue streams. And with that, I'll answer any questions.

BRIESE: Thank you, Senator Wayne. Any questions for Senator Wayne? Senator Lowe.

LOWE: Thanks, Chairman Briese. Thanks, Senator Wayne, for appearing in the General Affairs Committee. Will you be in the General Affairs Committee as much as you were today in the future?

WAYNE: Yes. So typically on Mondays, just so people know and the people who are watching, I coach my daughter's basketball game and I've coached over 1,000 kids and our practices are on Monday, so I leave here by 5:00. Unfortunately, the last couple of weeks, I've also had ag bills introduced, and education bills, so when you introduce 33 bills, you kind of fly around.

BRIESE: Thank you, Senator Lowe. Anyone else? Seeing no other questions, thank you, Senator Wayne.

WAYNE: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 10, 2020

BRIESE: No letters for the record. And that will close the hearing on LR295, and that'll end the hearing.