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Transcriber's Office

General Affairs Committee
February 23, 2009

[LB478 LB576 LB605 LB664]

The Committee on General Affairs met at 1:30 p.m. on Monday, February 23, 2009, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB478, LB576, LB664, and LB605. Senators present: Russ Karpisek, Chairperson; Kent Rogert, Vice Chairperson; Colby Coash; Tanya Cook; Merton "Cap" Dierks; Annette Dubas; Mike Friend; and Scott Price. Senators absent: None. []

SENATOR KARPISEK: I think we'll get going now. We've got a few members of the committee not here yet, but they will probably show up. Welcome to the General Affairs Committee. My name is Russ Karpisek. I'm the Chair of the committee. I'm from Wilber. To my far right, we have Senator Coash of Lincoln. Not here yet is Senator Friend. He's got three bills up in other committees today. Senator Dierks will be next to him. Senator Rogert is the Vice Chair of the committee from Tekamah. Josh Eickmeier is our legal counsel for the committee. On my left will be Senator Dubas of Fullerton; Senator Cook of Omaha; Senator Price of Bellevue. And Joan Snyder of Lincoln is our committee clerk today. Our page today will be Courtney Ruwe of Herman. Today we'll be hearing four bills: LB478 and LB576 introduced by Senator Rogert; LB664 by Senator Janssen; and LB605 by Senator Howard. Due to the similarities between Senator Rogert's two bills, we will hear LB478 and LB576 together. After each bill is introduced, we would like to hear testimony in support of the bill, then in opposition, and finally, neutral. If you're planning on testifying in any capacity, please pick up a sign-in sheet that is on the table at the back of the room at both entrances. Please fill out the sign-in sheet before you testify. When it is your turn to testify, give your sign-in sheet to one of the pages or to Mrs. Snyder, so that they may...give it to Mrs. Snyder. (Laugh) I need to read ahead. This will help make a more accurate public record. If you have any handouts, please make sure that you have ten copies for the page to hand out to the committee. When you come up to testify, please speak clearly into the microphone. Please tell us your name and spell it, both first and last, even if it's a common name. Also, tell us who you are representing if you are representing anyone. Please turn off your cell phones, pagers, or anything else that beeps. If you go off during committee, you'll get a lot of bad looks. Please keep your conversations to a minimum or take them out in the hallway. I would like to say Senator Dierks of Ewing has joined us. Senators may be coming and going as we go on today since there are other committees in session. Also, if you do not plan to testify, but want to say that you've been here and have your name in the record in opposition or support, you can fill out the list or the sign-in sheet by the doors. Also, we don't want to hear any support or opposition from the crowd. This isn't a football game. We won't be cheering, although I'm sure sometimes we would like to. I think that's all the rules that we have, so now we will get to our first two bills by Senator Rogert. Also, if you are planning on testifying on either of these bills, please say if you are in support or opposite...well, you'll know when you come up, but which bill you are talking about or both of them together. Senator Dubas of Fullerton has also joined us. All right, Senator Rogert, welcome to the committee. [LB478 LB576]

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SENATOR ROBERT: (Exhibit A) Thank you, Chairman Karpisek, members of the General Affairs Committee. My name is Senator Kent Rogert. I represent the 16th Legislative District. I'm here to introduce two bills today at the same time: LB576 and LB478. These both are fairly straightforward bills. These are to discuss the lifting of the ban on alcohol on Game and Parks regulated properties in Nebraska. If I could direct your attention to the handout that I passed around, that Courtney passed around before we got started, the numbers don't lie. Since the ban was put on in 1995, to date, we sell over 50,000 fewer permits than we did then. With the increase in the fee rate, that would be somewhere in the area of 500-plus thousand dollars extra a year of income for the Game and Parks Commission. There is, and there was a survey done recently. All of our neighboring states--Iowa, Colorado, Wyoming, Kansas, South Dakota, and Missouri--allow the consumption of alcohol in their state parks. This is one of those issues that brings people out to talk about it in every way. We all know that we have had problems in the past. We got a little out of hand in some areas of the state, and once again, a few bad apples ruined it for the bunch. And so they put a ban on alcohol in 1995, and we have a great park system in the state of Nebraska, and I wish to encourage everybody to use those in whatever capacity they want. This will be a good discussion today on cost versus benefits whether this is something we want to look at doing, and how many people would take advantage of our park system in excess of what we have today if it was allowed. I made a note on the left-hand side. There was a survey taken in some parks last summer. It noted that of those that were surveyed, 56 percent, just a little over half, responded yes, they thought alcohol should be allowed. I will say that was also taken on a group of folks who were not allowed to have alcohol, so there were probably quite a few of those that would go, that would have participated that weren't there, because they weren't allowed to participate. The numbers also don't take into effect the fact we've had about 200,000 more people in the state of Nebraska since 1995, so even with those, if we'd have stayed flat, that's where we would have come out in terms of extra permits and dollars. The bill I have allows for reasonable and general rules by the Game and Parks Commission to maintain order. Perhaps they could say no kegs; they can set a quiet time. This, in my opinion, would help alleviate some of the problems rather than just saying, willy-nilly, go forth. They can have certain areas where it would be loud or not. I've heard a lot of testimony come in to say that that would discourage family activity in our state parks. I fully disagree. I see families going to other states every day just to take place in their state parks, and that troubles me. I wish that folks would desire to stay here when they can. I understand that folks like to travel and spend time, but often the sincere fact that they go other places is they can't enjoy an adult beverage while they're doing their family vacation. Another problem I have is the inconsistency in the enforcement. It's been the general rule of, well, if you're not causing problems or you keep it inside a cup or in your camper, we're not going to give you any problems. The problem is, is you're still breaking the law. And the fact that a group of...a family of a young couple and maybe a couple of kids in their twenties and a few of their friends on a beach or in a camping ground with a six-pack of Busch Light

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will probably get investigated quicker than an elderly couple hanging out in their campsite having a glass of wine, which they're both doing the same thing, but it seems to me that the enforcement would be different. With that, I'll entertain any questions and turn over the testimony to those coming behind me. [LB478 LB576]

SENATOR KARPISEK: Thank you, Senator Rogert. Do we have any questions for Senator Rogert? Senator Cook. [LB478 LB576]

SENATOR COOK: Thank you, Mr. Chairman. Senator Rogert, you made a reference to other states. [LB478 LB576]

SENATOR ROGERT: Yes. [LB478 LB576]

SENATOR COOK: Can you tell me what, like Iowa or Kansas, South Dakota, what our neighboring states' policy with regard to this practice might be? [LB478 LB576]

SENATOR ROGERT: Yeah, Iowa has a policy of less than 5 percent beer, which is all domestic beer; and less than 17 percent wine, which is most wine; kegs only if they have a permit. Colorado: 3.2 beer only. Wyoming: no restrictions. South Dakota: no restrictions except at one beach. Kansas has 3.2 beer only, no glass, and no hard liquor. Missouri has no restrictions at all. [LB478 LB576]

SENATOR COOK: All right, thank you very much. [LB478 LB576]

SENATOR KARPISEK: Senator Price. [LB478 LB576]

SENATOR PRICE: Senator Karpisek, thank you. Senator Rogert, in your handout, you list the 51,000-plus permit decrement over time there from 1994. Are you asking us to believe that the sole reason for this drop in permits is due to the alcohol or lack of alcohol in parks? [LB478 LB576]

SENATOR ROGERT: No, but I will take...I will have you notice the very first year, there was a significant drop and then a slow drop from then on out. And I believe...I don't have the rankings, but they were in an increase every year until that year. So I think it's one of the...probably one of the most important issues. [LB478 LB576]

SENATOR PRICE: All right, thank you. [LB478 LB576]

SENATOR ROGERT: Um-hum. [LB478 LB576]

SENATOR KARPISEK: Thank you, Senator Price. Any other questions? I would. Senator Rogert, would you say that since a lot of our state's population is on the eastern end, also makes a difference for why you're trying to do this bill? [LB478 LB576]

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SENATOR ROBERT: Well, I think so. The number two destination site in the state happens to be our park out west near Chadron, and our biggest lake or several lakes happen to be in the western half of the state, most of which I would say most people in the eastern half of the state have never been to. I think folks would say, well, if I'm going to drive six or seven hours or eight hours to see a great place, I'd just as soon be able to enjoy myself the whole time I go out there. And I think encouraging the eastern half of the state to go visit the western half of the state for a family vacation is a big reason that I'm doing this. [LB478 LB576]

SENATOR KARPISSEK: Thank you. And also I know that you're an avid camper, boatsman. Do you go to many of the parks around here? [LB478 LB576]

SENATOR ROBERT: I do not. I will admit that I don't, because when I go, I'm probably going to be enjoying an adult beverage or two, and I obviously know that I can hide it in a cup or keep it in my camper, but I choose not to break the law or deal with the hassle. I do go during the day, I will say that. I go to take advantage of the bike paths and some of the fun things you can do during the day in those sites, but it's less often or hardly ever that I go to them for an overnight function or with a group of friends. [LB478 LB576]

SENATOR KARPISSEK: One last question. You did talk about that we have people there to watch this. We have enforcement at the parks. [LB478 LB576]

SENATOR ROBERT: Yes. [LB478 LB576]

SENATOR KARPISSEK: And so if this were to be changed, we have enforcement there. [LB478 LB576]

SENATOR ROBERT: We do have enforcement. We have our game wardens. Do say that they probably would say that it would be hard for them to enforce increased problems with their current staffing. But I also see that sheriffs and state patrol have full authority to look over those places as well, and it would be up to everybody to do their part. Also, if we had the extra \$500,000 in permit fees, possibly that we could get off this with the increase, that should help with our staffing. [LB478 LB576]

SENATOR KARPISSEK: Senator Price. [LB478 LB576]

SENATOR PRICE: Senator Karpisek, thank you. Senator Rogert, do you know how many people we have to police the public waters, lakes, particularly not the shared river, the Missouri, but the different lakes? [LB478 LB576]

SENATOR ROBERT: Can I direct that to Roger Kuhn who is coming behind me, with the Game and Parks? [LB478 LB576]

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SENATOR PRICE: Absolutely, great. [LB478 LB576]

SENATOR KARPISEK: Okay. Any other questions? Seeing none, thank you, Senator Rogert. [LB478 LB576]

SENATOR ROBERT: I just nominated Roger to testify whether he was going to or not. [LB478 LB576]

SENATOR KARPISEK: Okay, can we have the first testifier in support of...can we see a show of hands how many people will be in support of these two bills? Wow. (Laughter) And how about in opposition? Now, that's a whole lot. I want to remind everyone to be brief, to not repeat everything that we've heard before. And we have four bills to go through, so we do not use the light system in here, but if you're being redundant and rambling on, I will cut you off. I'll just give you that heads up. All right, thank you. Welcome. [LB478 LB576]

JIM PAPPAS: Chairman Karpisek, committee members, my name is Jim Pappas, J-i-m P-a-p-p-a-s. I'm here favoring these bills and representing myself. I have a very deep love for Lake McConaughy and I have a lot of dear friends out there for over 45 years. I've been through there, out there when the water has been high; when the water has been low. I developed a lot of great friends out there around the lake, a lot of great vendors that operate different businesses. We spent many hours out there camping with my family in different lodges, in different areas. One of my dear friends out there, Jim Hansen, runs the Kingsley Lodge, and he passed away last fall in a tragic car accident, but after...in the nineties when this was implemented, I was talking to him several years afterwards, and he was telling me about the loss of business he had. And he said, the problem was, he said, they wanted to make the beaches family friendly, which they did. But he said the problem was the families weren't spending money around Lake McConaughy. He said what was happening, he said, the kids would come down, most of them of legal age to drink, from the Denver area, the Colorado area, and he said, they would come down and throw a sleeping bag and maybe a tent in the car. Well, they'd get down there and they found out, well, they need ice; they need something to drink. Then they'd be talking to somebody that'd say, hey, you know, let's go fishing, so they'd buy a fishing license. Well, we don't have any poles; then they'd buy a fishing pole. Then they'd buy some bait. They'd fish for awhile; the pole would break or the bait would fall in. Then at nighttime they'd realize they didn't bring any firewood. They'd go buy some firewood, and then they'd go buy some hotdogs or whatever, or buy some beer or whatever else. And that was fine; they made money. Myself as a family, which I was family friendly than the beaches were, when we'd go down there from Lincoln, we'd stop by Super Saver first, would load up our car with all the specials, haul them out there. We had a camper out there at one time, would put them there. We didn't spend much money with locals but bait vendors, as much as I loved them and as much as

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some of them were my dear old friends. I was out there in August, we went out there, took the family out there camping. The north side of Lake McConaughy looks like a ghost town of all the bait vendors and little tourist shops and stuff that are closed now. They are not open. And it's not all caused by the low water level. That is just not it. When we had a trailer house in the North Shore lodge area, the North Shore campground area, I think all but one of our neighbors was from Colorado. The Colorado people frequent Lake McConaughy because it's closer to Denver than it is Lincoln and Omaha. And those kids came down there, and they bought...once in awhile there was a disturbance, but they came down; they purchased things locally because they didn't bring them with it. Families don't do that. Families shop in Ogallala at the supermarket or they shop in Lincoln before they go out there, or they shop in Denver before they go out there. It just makes sense to come out and try to create a more economic, viable interest for the state in these hard times. They're going to go someplace else. The senator is not wrong. He's just hit a touchy subject which a lot of people will cry gloom and doom, we're going to have riots and everything else if this passes, it happens again. But it's not going to happen. It wasn't that bad before except for a few separate instances that got out of control on the beach, in which he...the senator already admitted that it could be controlled through different, various methods or means. One of the favorite memories I had was one time after the alcohol ban was in place was going out there, and I had my Suburban full of kids and the wife, and went up to a checkpoint. And you know, the sheriff's deputy or state patrol guy saw me coming, and he just waves me through. Right ahead of me was some kid, looked like he was about 20 or 21, in a Suburban, and looked like they were searching...not a Suburban, a Camaro...looks like they're searching for drugs. I mean, they had the seats out and everything else. Well, I was out there with kids and family, so they didn't...wasn't even going to bother to search me, and I could have had my whole Suburban full of beer, but it was just selective on that. And guess who probably wouldn't go back out there? That kid in the Camaro. And that's just a loss of income. But if you want to see some...I don't know if anybody's here from Ogallala, but drive around the north side of that lake and see all the closed businesses. I mean, it is not what it was 10, 15 years ago by a long ways. [LB478 LB576]

SENATOR KARPISEK: Thank you, Mr. Pappas. Do we have any questions? Seeing none, thank you. [LB478 LB576]

JIM PAPPAS: Fishing is horrible out there now too, I might add. (Laughter) [LB478 LB576]

SENATOR KARPISEK: Any other support? If not, we'll start the long list of opponents. Welcome. [LB478 LB576]

DIANE RIIBE: (Exhibit A) Hi, Senator. Good afternoon, Senator Karpisek, members of the committee. My name is Diane Riibe, and I'm the executive director for Project Extra

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Mile. We are a network of community coalitions across the state working on underage drinking prevention and youth access to alcohol. [LB478 LB576]

SENATOR KARPISEK: Can you spell it, please? [LB478 LB576]

DIANE RIIBE: Yes. It's R-i-i-b-e. We're here today to oppose both LB478 and LB576. The proposals within these two bills would allow consumption of alcohol within our state parks, would allow for the granting of liquor licenses on the structures and property, and would remove the local governing body's authority to have the voice in the licensing process by placing the Game and Parks Commission in that role. As I prepared for today's hearing, I wondered whether to begin with what we know from the literature and research, or if it would be better to begin with the Nebraska experience. I believe I'll begin with the Nebraska experience which must include the burden on law enforcement. It's difficult for those of us who worked on these issues in the nineties to forget what led to the original ban of alcohol in the state's parks. First, let me begin by saying that this is...Nebraska is at a critical time for its ability to effectively address alcohol-related problems overall from an enforcement perspective. We've granted more and more liquor licenses over the past years. Since 2001, we've granted an increase of licenses of more than 28 percent since 2001. On the other side of the coin, the state's population, according to data from the University of Nebraska at Omaha, Center for Public Affairs, has increased at the rate of only one-half of 1 percent each year, totaling a gross increase in population during that same time period of, at most, 4 percent. The information from UNO also asserts that half of all Nebraska counties have lost 30 percent or more of their population since the 1950s. As we speak, the Nebraska State Patrol, the agency with primary responsibility for liquor enforcement, is looking at a reduction of anywhere from two to three dozen troopers or officers. And when we look back at the need for increased enforcement that was common in our state parks when alcohol was openly allowed, we know that those operations required officers working overtime in addition to their regular staffing level on most occasions. Again, we're at a critical place in this state with respect to our enforcement capacity. We're so short on human resources that we often don't even have the people to offer the overtime to. We're not talking about law enforcement not doing its job. We're saying that we can't ramp up what we don't have. Further, a common refrain even during good economic times is that there's concern over passing laws that would be relatively unenforceable. The proposals contained in these two bills couldn't be a stronger example of that challenge. It's important and instructive to remember back to the discussion and environment that led to the ban back in the mid-nineties. In an article in the Denver Post dated October 23, 1994, the paper reported that Nebraska was tightening its alcohol rules at the parks, targeting "liquor-fueled mobs that have caused problems" at the state park destinations. In another article dated April 21, 1995, in referencing the need for the ban on alcohol, that article referred to, "mounting problems with drunken boaters and campers." And in the Associated Press archives, we find the most difficult news accounts. The death of an 8-year-old boy, Dillon, of Crescent, Iowa, run down and killed

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by an SUV driver while riding his bike at Lake McConaughy. And then there's another little boy also named Dillon, ten years old. This young boy was sleeping in his tent on the beach when he was run over with a car driven by a 20-year-old driver. In an article dated September, 2004, an official with the Game and Parks Commission was quoted as saying, "There had been four alcohol-related fatalities in three years previous to 2004." This fact alone, Senators, should effectively end the policy discussion. According to the research from the University of Minnesota's alcohol epidemiology program, we know that prohibiting or restricting alcohol on public properties may reduce a variety of alcohol-related problems and harms. We also learned that more than 80 percent of adults across the country support banning or restricting consumption of alcohol in public places. Of course, underage drinking easily occurs on unsupervised places that include parks and beaches. Alcohol-fueled disturbances and problems are increasingly associated with increased availability, particularly in those areas where a shortage of enforcement is experienced. The increase in potentially serious injuries including deaths is of greatest concern. Finally, LB576 establishes the Game and Parks Commission as the local governing body for granting any liquor license. We would strongly oppose that move as well. The licensing process, as we'll discuss in subsequent hearings this afternoon, is one in which citizens should be able to navigate and engage in with as little difficulty and confusion as possible. Adding another agency to that process only ensures that the state would increase any difficulty and confusion that citizens might have as they work through the process, speaking out and being heard on these issues. Senators, these proposals present nothing but an invitation to revisit the tragedies experienced in the state back before the ban was put in place. They propose an increase on an already burdened law enforcement personnel. They ignore the seriousness of the problems at hand and in the past, and we would urge you to not support either of the bills. Thank you. [LB478 LB576]

SENATOR KARPISEK: Thank you, Ms. Riibe. Do we have any questions? I would just ask, do the other states all around us have so many problems as you've indicated that we would have around us? [LB478 LB576]

DIANE RIIBE: These, Senator, are problems that we have had, and we have not done that research at this point. Our hope is that it doesn't get out of committee, so we will do that if we need to, but at this point, we don't have that information. We know what we've seen in Nebraska. [LB478 LB576]

SENATOR KARPISEK: It just seems, I guess to me, if everyone around us has it, that have a lot more water, that I guess, no pun intended, we're missing the boat. Do you think if we would get our permits up that we could have more enforcement as Senator Rogert alluded? [LB478 LB576]

DIANE RIIBE: Well, that's certainly not...\$500,000, quite frankly, would go very quickly when it comes to enforcement. That's just the nature of those costs. When you look at

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alcohol's cost and underage drinking costs to the state, you're looking at \$447 million, according to the Pacific Institute for Research and Evaluation, so it's not...we're not talking a few hundred thousand dollars and seeing that we might offset that. It's pretty significant in its totality. [LB478 LB576]

SENATOR KARPISEK: Okay. Well, you just brought up underage drinking. I don't know that...this isn't a bill to allow underage drinking. [LB478 LB576]

DIANE RIIBE: No, sir. [LB478 LB576]

SENATOR KARPISEK: Okay. I just want to make it straight that people do go to these places that are old enough to drink and not promote underage drinking. [LB478 LB576]

DIANE RIIBE: We understand that. [LB478 LB576]

SENATOR KARPISEK: Okay. Any other questions? Seeing none, thank you. Next opponent. Welcome. [LB478 LB576]

DICK TURPIN: (Exhibit C) Thank you, sir. My name is Dick Turpin, T-u-r-p-i-n. Senator Karpisek and the committee members, I find myself in awe here a little bit. You know, getting old isn't all that good. But the only person I can actually look at here and associate with is Senator Dierks. We're about the same age. So it's like you're kind of teaching school here or something. But I didn't come here to teach school. When we had the problems with the alcohol in our state parks and it just elevated to a place where you couldn't stand it, I mean there were considerations of calling in at one point in time in '93-94 to call in the National Guard because you couldn't control it with all the sheriffs and their deputies, all the patrol that could be there, and all the game wardens that could be there. Well, I don't know what we're operating at now with game wardens, but I do know in this area alone...and here's another misconception, that people always point to McConaughy when it comes to the liquor problems. We made more liquor arrests at Branched Oak some years than we did in McConaughy, so it wasn't just McConaughy, you understand that, I hope everybody does. But I've heard some misinformation here. They talked about the businesses. The senator that testified said the people went to town, bought beer--not altogether. Those people that came to that lake from Colorado literally rode in there with pickup loads of cases of beer. They found a good buy in Colorado and hauled it in. That's what they did. And I can't imagine. I brought with me, and I want to submit this and I'll leave this, and I would hope that somebody would look at it. This is a tape that we took in July, just we wanted to document, you know, the behavior. That's all this was. And we took this tape in July, and to tell you the truth, it runs better than a half hour. But it starts, it gives you the times and the dates and everything so you can tell how it elevates. And Mr. Sheets who sits here, who was an assistant director at the time and I stood right there on the beach in '94 when they had a big row, some guy drove through there drunk and hooked onto a

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tent or something, you know, and the crowd gathered up and there was a bunch. And I think we had maybe five or six game wardens there, that was it. People throwing full cans of beer out of the dark into that crowd, you know, and a couple of them officers got hit. It was not a good situation. So I've been there and done that. I mean I've had that experience. I don't come here out of ignorance. I've been there and saw that and dealt with it. And I would just...I see this myself as a kind of...and I can understand where people are coming from, you know, want to have a beer, want to have...but I see this as just kind of a camel's nose under the tent. You know, once you get that going, it ain't going to be very many years and we're right back in that same situation. And I dare say, and I don't mean this to be insulting, but I don't think there's a soul in here that's ever been at Branched Oak in 1994 or 1995 or McConaughy at 3:00 in the morning on the 4th of July. I can guarantee had any of you been there, you'd have a way different look at what's happening here. I'll guarantee that. I don't know about the finance--this young lady before me talked about the financing--and I don't know what it would cost to replace the enforcement of it. But I'm telling you, when it gets to that point when you have to go around and check people for intoxication, the highway patrol had literally a hospital set up there in a truck where they tested all that. And there was a line out there you couldn't see the end of it for officers dragging people in and trying to examine them to see if they were intoxicated and get them for public intoxication. I don't know how...I understand they're giving the Game Commission some leeway here as far as how to set that up regulatory, but that gets to be difficult. You know, and here's another thing that kind of bothers me just a little bit. I couldn't say, I was chief of law enforcement when this was happening, that's how I know this, and I couldn't go to a newspaper or talk to anyone of you and say, well, we're just going to enforce certain things. You can't do that. If it's a law, like Senator Rogert said, it's a law. If you're going to drink beer out there, you're going to violate it. And everybody gets so envisioned on that you get tunnel vision here. I want to ask you a question. Did you violate the speed limit today? I'll bet every one of us did. Hell, you can drive 75 miles an hour down the highway, ain't going to bother you. Well, if that isn't discretionary, I'll jump up and bark like a fox, isn't it? But yet we make this, oh, God, if the game warden lets that guy drink, that's discretionary. Well, let me tell you something. You can get in your cars and you just get a going as fast as you can. And you find me one person who ever had his trailer house door kicked in or his tent unzipped and a warden stepped in and arrested him for drinking unless there was a complaint on a party or something, I don't know that that ever happened. I don't know that that's ever happened. I don't know if it did. I don't know of it. So I'm a little concerned. When you start...what we have here kind of is a generation gap, I mean we really do. In '94, some of those folks that were out there camping, my God, some of them were dead. And most of them that are looking at this bill have never been there. So you've got kind of a gray area here where none of the people that can really determine whether this is a good or bad thing are going to be heard from. So I would just ask you to proceed with caution on this because there certainly are some pitfalls with it. I've been there and done that and it's not good. I brought with me...one of the things we had to do was because we had several of the commissioners at this time,

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several of them thought, well, maybe this wouldn't be a bad idea that you have the alcohol in the parks. So what we did was...and I believe this may have come, and don't hold me to the fire on this, but I think this tape might have been taken by the sheriff's office or it might have been taken by our officers. But all we wanted to do was document the behavior so that people could see--and we showed this to the commission, by the way--so that people could see how that, this was McConaughy, of course, but how that thing really got to rocking and rolling about 12:00, 1:00, up to 3:00. This has the times on it and everything, the camera, so you can see how it generated and everything. And I would hope that somebody on the committee would watch this. It probably runs a half hour, but I would hope that somebody would watch it. And when you have your conversations about whether or not you think this is the kind of behavior you want in your parks...you know another thing...and I'll submit that to the clerk. Another thing that kind of bothers me a little bit, and I'm not speaking here for Mr. Amack, the director, or anybody, but I'm just speaking from my experience, one of the things I thought was, as I was chief of law enforcement, you know, when you buy a park sticker--and they raised, they elevated this year a little bit, not much, they're well worth it--but when you buy a park sticker, my personal thought was, when I was chief of law enforcement, that you were entitled to a certain amount of protection, that actually the state Game and Parks Commission was responsible for creating a safe situation for you. Well, if any of you watch this tape and to see how sometimes, like I say, that camel gets his nose under the tent, I wouldn't want to take my kids down in that crowd, I'll tell you that. So I wonder if we get beyond a point where we can't provide that. I don't know. Like the lady before me said, \$500,000 ain't much when it comes to paying personal, you know, personal...of the salaries and everything. So I don't know whether the trade-off is worth it. Now I'm going to get out of here. But I got to say something to you, Mr. Coash. Senator Coash, he's a homie, home boy, old Sandhillier. Knew his dad, know his dad, know his grandpa. Yeah, I just had to say that. I hadn't seen you since you probably were this tall, yeah, so it's good to see you. Good to see you achieve in life here, kid. Yeah. Well, any questions? [LB478 LB576]

SENATOR KARPISEK: Thank you, Mr. Turpin. Do we have any questions? Senator Dubas. [LB478 LB576]

SENATOR DUBAS: Thank you, Senator Karpisek. Thank you, Mr. Turpin. I would appreciate just some background, because I'm not familiar with the history of the before and after. So up until 1994, any kind of drinking was allowed in our...there were no...? [LB478 LB576]

DICK TURPIN: Pretty much, yeah. I mean it was just...and those kids, if you watch, I would encourage you to watch this video. I think there's another one out here, but I had this one. I saved this just for my own interest. But there are some other, we had some still photos and stuff, just to show...I mean literally it was to show the commission what was going on in these lakes. And it just elevated. I mean it was one of those things, you

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know, one of the years the lake got down and you had a good beach; my gosh, those people from Colorado come hogging in there. There was probably 50 percent of them from Colorado. I don't know that, Roger would know better than I, but they were part of the problem. They were part of the big problem. But, of course, our natives are the same way, and it just elevated to the point where you just...I mean, like I say, there was talk of getting the National Guard there because we just couldn't control it. With the three entities: the sheriff, the patrol, and ourselves, there just wasn't enough manpower. Your guys were mostly running back and forth to town putting people in jail. You didn't hardly have time to work the area, and that's the truth. And so it just kind of elevated to the point where it got to where it was just...and I think part of that problem, and I think I sat in on a meeting with Director Amack when we sat in there and, of course, law enforcement was always under fire for it, but Rex made a good statement. He said, this isn't a personnel, this isn't an enforcement problem; this is a parks problem, because we don't have control of the accesses. And he was right. People could come and go out of, I don't know, there must have been 15 different little roads you could get in and out of there and not be checked or anything. So they rectified that, which really helped. After they got the ban on, then they rectified that and got just a few entrances so you could have a kiosk there and check people coming and going, which really added to the security of the area. And I thought that was a good idea. But I don't know about the numbers since they put that on. I know I go out there and I've heard that, well, the places on the north side are shriveling up. Well, my God, our country is. I mean, I don't know what else to say, you know. It's hard to get the buck now. And I know a couple of guys that own places there and the fishing kind of went down. The lake got low, but that has nothing to do with it, but the fishing kind of backed off so that income, I mean it shriveled. And I know the fellow there, LeMoyne (phonetic), you know, he's looking to sell because he just can't make a living now, just can't do it. So I think probably our economic times are going to be a problem if this bill passes, too, because you're not going to be able to...the Game Commission come down here to finance and say, hey, we want another million dollars to hire some guys. That's not going to happen, kids, it ain't going to. So I kind of worry about that part of it. I don't know what the other states do. Senator Rogert had visited with some of those states. I don't know what their expenditures are to handle alcohol. I have no idea. I don't know that anybody said that. But for me personally, I'd just as soon be able to take my kids out there and not have to deal with a bunch of drunks. She suggested here about the kids that got run over. One of those children that got run over, his own father backed over him with truck in the tent and ran over his head. The kid died in surgery in the Ogallala hospital while the old man laid passed out in the waiting room. And to me, that just don't speak very highly of alcohol. I don't know what our obsession is with alcohol, but we've got one. My suggestion--and I'm going to get out of here, I've talked too long--my suggestion is, you know, you got 60,000-70,000 people out there at McConaughy wanting to have fun, and we want them to have beer to have a lot more fun. Well, I think I'll try to get in the Senate and introduce a bill say, why don't we put drinking back in the football stadium? They're out there to have fun. Let's let them have their beer--try to control that. But I

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think it's a pretty good comparison. They're just out there fun-loving people. Give them a case of Budweiser and let them cheer on Big Red. Any questions of me and I'll... [LB478 LB576]

SENATOR KARPISEK: Thank you, Senator Dubas. [LB478 LB576]

DICK TURPIN: Yeah, you turned me loose there. (Laughter) [LB478 LB576]

SENATOR KARPISEK: Senator Coash. [LB478 LB576]

SENATOR COASH: Thank you, Chairman. Thank you, Mr. Turpin, homie. (Laughter) [LB478 LB576]

DICK TURPIN: Yes, sir. Homie. [LB478 LB576]

SENATOR COASH: Park permits are down. [LB478 LB576]

DICK TURPIN: Yep. [LB478 LB576]

SENATOR COASH: Tell me why. [LB478 LB576]

DICK TURPIN: Oh, I think probably the economics has got something to do with that, don't you? Maybe the price of the permit. I don't know, maybe we've overpriced ourselves. [LB478 LB576]

SENATOR COASH: But you just said you want to raise them. [LB478 LB576]

DICK TURPIN: Well, they have raised. [LB478 LB576]

SENATOR COASH: You're okay with that? [LB478 LB576]

DICK TURPIN: I'll pay it because I know I can go to a park and not get hit with a beer can. (Laughter) Hello. [LB478 LB576]

SENATOR COASH: Just economics? [LB478 LB576]

DICK TURPIN: I think economics is going to have a lot to do with it. I mean, can't we...I mean, I think we all agree with that. Economics is going to have a lot to do with this, I mean, in the long run whether we pass this or not. I can't see if we open up for drinking that it's going to be that much of an increase. Well, here's something we could... [LB478 LB576]

SENATOR COASH: I just wonder if you point to some...I mean... [LB478 LB576]

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DICK TURPIN: I cannot. [LB478 LB576]

SENATOR COASH: Drinking or not, I'd like to see permits go up. [LB478 LB576]

DICK TURPIN: Yeah, but see, that's happening all over, those permits. I don't know, I mean as far as we're concerned, we have a hard time keeping our permit sales up, our hunting, our fishing, and the park permits. I don't know whether it's economics or we're just getting a different kind of people in the country. They don't like to go out and camp, maybe, anymore. [LB478 LB576]

SENATOR COASH: All right. [LB478 LB576]

DICK TURPIN: And it has nothing to do with the drinking. Maybe they just are getting out of the...I haven't done all that research, but you will hear probably some that have, so. [LB478 LB576]

SENATOR COASH: Okay, thank you. [LB478 LB576]

SENATOR KARPISEK: Thank you, Senator Coash. Senator Price. [LB478 LB576]

SENATOR PRICE: Mr. Turpin, I like being called a kid. Thank you. (Laughter) [LB478 LB576]

DICK TURPIN: At my age, I got to. I mean, I just (laugh) I got kids older than you. [LB478 LB576]

SENATOR PRICE: That's great. I'm working on it every day. [LB478 LB576]

DICK TURPIN: You are? Good for you. [LB478 LB576]

SENATOR PRICE: The question I have is, would you venture a guess, if you could, how many boatable bodies of water the parks have? [LB478 LB576]

DICK TURPIN: Oh, God, I don't know, a lot. [LB478 LB576]

SENATOR PRICE: A lot being better than 50, less than 100? [LB478 LB576]

DICK TURPIN: Oh, it'd be better than 50. [LB478 LB576]

SENATOR PRICE: Better than 50? [LB478 LB576]

DICK TURPIN: Yeah. [LB478 LB576]

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SENATOR PRICE: All right, thank you. [LB478 LB576]

DICK TURPIN: Good lakes, yeah. [LB478 LB576]

SENATOR KARPISEK: Thank you. My turn, Mr. Turpin. You said you didn't come here to be a teacher, but you do a lot of teaching on TV and I want to thank you for that. You've kept a couple hooks out of my fingers over the yeas. [LB478 LB576]

DICK TURPIN: Is that right? Good, good. [LB478 LB576]

SENATOR KARPISEK: Well, I think. I would say, though, we often go to Yankton to go camping. [LB478 LB576]

DICK TURPIN: Uh-huh, yes, sir. [LB478 LB576]

SENATOR KARPISEK: We've camped on the Nebraska side and, of course, driven across and seen. The Nebraska side, you could about shoot a cannon through there and not hit anyone, so they sure wouldn't get hit with a beer can. The South Dakota side, they have to have a lottery and you have to be over there at 8:00 in the morning to try to get a site, and there's a lot more over there. Now... [LB478 LB576]

DICK TURPIN: There's the magic word. There's a lot more over there. As I saw this, and I worked that area back in the '60s when I first came on as a game warden, and I could remember how that place suffered. WYgone was nothing. It was a little screened-in shack, sold a little soft ice cream and a bucket of worms and that's about it. And it was terrible on our side. Now the reason for that was, there was no development on it. If we'd have had a Norfolk sitting on the back of the Missouri River to compete with Yankton, it'd have been a different story. But that was not there. So the development of that area just really came slow. And I think probably one of the biggest things that ever happened up there was when Mahoney was the director, Eugene Mahoney, that he said, we're going to have...that WYgone is going to be a place. We're going to build this thing up. And they did, of course. Now that attracts people. I don't know about the camping areas. I don't camp up there much, and when I go I generally stay in one of the cabins. But they have enhanced that some. But I think probably that problem is mostly just from the development on the shore. There's no town there. People have to go across to shop. You know, you don't have any other place. If you want to buy a pair of overshoes, you got to go to Yankton. You know, you want to buy anything, you got to go to Yankton. And so that area just developed. They got the big yacht club there because it's right close to town, and I can imagine the commercial people there in town, you know, the commercial clubs pushing all that, and we just didn't have that on our side. It was hard to get that place developed. It was really hard. You know, they started that out to be a big...up in the Devil's Nest area that was going to be a big development area,

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and they had a big promotion and everything, and it fell flat on its face. And I think that's another one of the reasons--there wasn't the backbone there for them, a city or development. There are just no towns. [LB478 LB576]

SENATOR KARPISEK: I'll just give you just a real quick... [LB478 LB576]

DICK TURPIN: Okay, go ahead. [LB478 LB576]

SENATOR KARPISEK: The last time I was there I went across and got my number to wait in line. I said, I really feel bad. I'm a state senator from Nebraska, but I'm going to camp on this side. She said, oh, don't feel bad. We get a lot of people from Nebraska over here. Most of them say it's because when they get set up they want to have a beer. [LB478 LB576]

DICK TURPIN: Is that right? [LB478 LB576]

SENATOR KARPISEK: True story, I'm not saying... [LB478 LB576]

DICK TURPIN: I'll be darned--another beer drinker. [LB478 LB576]

SENATOR KARPISEK: ...well, you can probably already guess where I'm at on this, but that's what they said. I'm not...I just want to say that I think we've got just as much up there potential, but we don't have it right now. I don't want to...Senator Dierks's area. He's got a bridge named after him up there right now so... [LB478 LB576]

DICK TURPIN: Yeah, that's right. (Laugh) [LB478 LB576]

SENATOR KARPISEK: ...we have to be careful. Anyway, any other questions for Mr. Turpin? Senator Dierks. [LB478 LB576]

SENATOR DIERKS: Well, that bridge is named after Standing Bear, not Dierks. But I just wanted to offer the thought...or ask you about lack of business. [LB478 LB576]

DICK TURPIN: Uh-huh. [LB478 LB576]

SENATOR DIERKS: This is going across our whole state. You get into those small towns around there and they're all losing people. Our schools are starting to merge, and that's just a sign of the times. [LB478 LB576]

DICK TURPIN: Yeah. [LB478 LB576]

SENATOR DIERKS: So there just aren't the people out there to buy those permits. [LB478 LB576]

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DICK TURPIN: I don't think so. [LB478 LB576]

SENATOR DIERKS: I should tell you what I do. I buy both...all four of my children two park permits every year for Christmas. That's just their Christmas gift, a fairly decent gift... [LB478 LB576]

DICK TURPIN: Yes, it is. [LB478 LB576]

SENATOR DIERKS: ...and they love it, and they use it. Now we do both Calamus and Lewis and Clark and we go out to McConaughy occasionally and we've been pleased. Everywhere we go, we're well treated. [LB478 LB576]

DICK TURPIN: I go to Calamus quite a little when those white bass are hitting, and I've always enjoyed that. They keep that good and clean and everything. I've never run onto a problem there. [LB478 LB576]

SENATOR DIERKS: I want to tell you something that happened to me when I was just a little kid. I went frog hunting with a guy out on the South Fork River bayou west of Ewing. [LB478 LB576]

DICK TURPIN: Uh-huh, yeah. [LB478 LB576]

SENATOR DIERKS: And we took a cane pole and a hook and a piece of red cloth. [LB478 LB576]

DICK TURPIN: Oh, yeah. [LB478 LB576]

SENATOR DIERKS: And just dropped that over the side of the bank, and those old bullfrogs would jump and grab that thing. [LB478 LB576]

DICK TURPIN: Oh, yeah. [LB478 LB576]

SENATOR DIERKS: We caught all the bullfrogs you could ever imagine out there. No worms, just... [LB478 LB576]

DICK TURPIN: See, we were too hard on those, Cap, because now you got a limit on them. We shouldn't have...we kind of raped that resource really, we really did. Yep, I did the same thing. I've been there, done that, yeah. [LB478 LB576]

SENATOR DIERKS: Thanks, Dick. [LB478 LB576]

DICK TURPIN: Yep, you bet. Anybody else? [LB478 LB576]

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SENATOR KARPISEK: Thank you, Senator Dierks. We won't ask if he had a bullfrogging permit back then. [LB478 LB576]

DICK TURPIN: Back then you didn't need one. [LB478 LB576]

SENATOR KARPISEK: Okay. [LB478 LB576]

DICK TURPIN: Out in Holt County, you didn't need one. See, there was... [LB478 LB576]

SENATOR KARPISEK: All right. Thank you, Mr. Turpin. [LB478 LB576]

DICK TURPIN: Well, my last comment is, I think if this passes I'm going to put my money into beer companies. (Laughter) Take it out of the stock market and put it into beer. [LB478 LB576]

SENATOR KARPISEK: Thank you. [LB478 LB576]

DICK TURPIN: Yes. [LB478 LB576]

SENATOR KARPISEK: Next opponent. Welcome. [LB478 LB576]

RODNEY FROST: Welcome. Rodney Frost, R-o-d-n-e-y F-r-o-s-t. And this is the first time I've ever done anything like this, so I'm nervous as heck. [LB478 LB576]

SENATOR KARPISEK: Well, you're doing good so far. [LB478 LB576]

RODNEY FROST: (Exhibit C) Okay. Actually, I just learned about this bill in January when I was at an Izaak Walton mid-winter meeting at the University of Nebraska where we were handing out scholarships to some of the people, and this bill came up, and the professors that were there, the students that were there, and the Izaak Walton members, we discussed this, and there was actually nobody that was in favor of it in that group. Also, I work at the Fremont state recreation ground. When I retired from Hormel's in '98, I got a job out there in the summer, and I see...I mean, we serve 800 to 900 thousand people at the Fremont state lakes, so it's full every weekend. We're not losing any business there because people aren't drinking. We have a lot of boats. Our lakes are just packed every weekend. If there is any alcohol there, we're going to have people drinking and driving, and we're going to be killing people. We have thousands of kids in the park that are walking around. They're on the streets and stuff. If anybody is intoxicated, we're going to have kids hurt. Also, we have volunteers to pick up cans and stuff out in our park, and they pick up enough beer cans and bottles already to supply us with coffee and rolls for the whole summer. We pick up that many. So there is a little

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bit of drinking going on in the parks even though it is illegal. I am a member of the Eagles Camping Club, and we do a lot of camping, and I have never run across anybody that has left the state of Nebraska to go camping just so they can drink. I don't know anybody that's done that. I don't know what else I can tell you. I'm going to make this short. I'm not as long-winded as some people, so (laughter) we'll... [LB478 LB576]

SENATOR KARPISEK: Not pointing any fingers, right? (Laugh) Thank you, Mr. Frost. [LB478 LB576]

RODNEY FROST: Yeah, we'll just...that's all. [LB478 LB576]

SENATOR KARPISEK: Do we have any questions? Senator Dubas. [LB478 LB576]

SENATOR DUBAS: Thank you, Senator Karpisek. Thank you very much, Mr. Frost, for coming forward, appreciate that. Do you have, outside of local law enforcement, any other type of enforcement, like in the Fremont parks, for...? [LB478 LB576]

RODNEY FROST: No. Our supervisor and assistants basically have no law enforcement. The only way that they can actually control alcoholics and people that get drunk in our park is by telling them it's illegal, and then they can kick them out. I mean, basically, they can threaten them, and our night security...I've talked to some of those guys, and they have trouble. They've had to call the deputies to come out, but they've basically got no authority other than to call the sheriff, and by the time they get there, you know, if things aren't straightened out, then the law enforcement. But we don't have any law enforcement or anything full-time. [LB478 LB576]

SENATOR DUBAS: So it's really just if there's a problem, then local law enforcement is called. There's no policing, no one driving around looking for... [LB478 LB576]

RODNEY FROST: Right, there's...the deputy sheriff might drive through our park once a night, once a day, but there's no set routine and no set law enforcement, no. [LB478 LB576]

SENATOR DUBAS: Thank you. [LB478 LB576]

SENATOR KARPISEK: Thank you, Senator Dubas. Any other questions? Seeing none, thank you. [LB478 LB576]

RODNEY FROST: Um-hum. [LB478 LB576]

SENATOR KARPISEK: Next opponent. Welcome. [LB478 LB576]

KATHY BURSON: (Exhibit D) Good afternoon, Mr. Chairman and members of the

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committee. My name is Kathy Burson, B-u-r-s-o-n, 6143 Whitmore Street. I'm co-executive director of PRIDE-Omaha, which is a parent community organization dedicated to preventing the use of alcohol, tobacco, and other drug use by our young people. I'm here today to oppose both LB478 and LB576, the bills that would allow for the sale and consumption of alcohol in the state park system. I will be brief. Other testifiers have already mentioned a few of my points, but I did want to say that PRIDE-Omaha's main concern is for the health and safety of all Nebraska's youth. Alcohol is the number one preventable cause of death and illness in relation to our young people across Nebraska. According to the 2007 Nebraska Risk and Protective Student Survey, 73.7 of our 12th-graders in Nebraska reported having used alcohol in their lifetime, and 41.8 of these seniors report having consumed alcohol on one or more occasions in the last 30 days, which means regular use. Most of our state's young people do drink in unsupervised places such as parks, beaches, fields, homes, and other areas. I know that we're not addressing underage drinking here, but lifting the ban certainly would provide more unsupervised opportunities for Nebraska's adolescents to gather to consume alcohol, and would put a heavier demand on our law enforcement agencies to respond to the disturbances that have been mentioned earlier. I urge you to kill both LB478 and LB576 in committee. Do not remove the prohibition of alcoholic beverages on lands owned or operated by the Game and Parks Commission, and do not allow the Nebraska Liquor Control Commission to issue liquor licenses for locations within structures or on land within the state park system. Thank you. [LB478 LB576]

SENATOR KARPISEK: Very good, Ms. Burson. Senator Price. [LB478 LB576]

SENATOR PRICE: Senator Karpisek. Thank you, Ms. Burson. Would you venture a statement of any kind on Lake Manawa on Saturday afternoon and evening? I take my boat and my family out, and personally, I don't go out on weekends because I don't believe it's a safe environment, but find it plenty safe during the weekdays. But could you venture to say of any problems that they may have that cover that Carter Lake area and Lake Manawa over into Omaha? [LB478 LB576]

KATHY BURSON: You know, all I can truly comment is what we had seen before this ban went into effect and then after the ban went into effect. And we were seeing problems, most notably out west, but truly across Nebraska before the ban went into effect, and those were greatly reduced after the ban. As the previous speaker said, I can't say it was eliminated, and we probably will always have concerns of this nature, but what we're trying to do is provide a safe environment for families, including our young people. [LB478 LB576]

SENATOR PRICE: All right. Thank you. [LB478 LB576]

KATHY BURSON: Um-hum. [LB478 LB576]

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SENATOR KARPISEK: Thank you, Senator Price. Any other questions? Seeing none, thank you. [LB478 LB576]

KATHY BURSON: Thank you. [LB478 LB576]

SENATOR KARPISEK: Next opponent. Welcome. [LB478 LB576]

ROBERT SCHMILL: (Exhibits E and F) Good afternoon. Chairman and members of the committee, my name is Bob Schmill, and that's B-o-b S-c-h-m-i-l-l. I'm the father of Matt Schmill, who was killed by a hit-and-run drunk driver on April 24, 2004. The reason we are against this bill, although it starts with Matt, it extends to include the safety and citizens of our state. To keep Matt's memory alive, we founded the Matt's Dream Foundation to educate adults on the dangers of alcohol, and the impact that drinking and driving has on families and friends of victims. We speak to six to eight groups each month in a two-state area, and our main focus is on 21-and-over drivers. During our journey through the state legal system, we found that the person that killed our son had admitted to drinking in the local park prior to driving through the Benson area of Omaha. She also admitted she had not been drinking since the crash. When her BAC or blood alcohol was tested four hours later, her BAC was .134. We also learned that she had three prior MIPs and was on probation for a DUI at the time she killed our son. For a state that has more locations to buy alcohol per citizens than other states, where the Liquor Control Commission rarely controls anything even after local, regional, and national information has been presented, also a state that ranks fourth for the number of drunk drivers, it seems that we would be making a very large mistake in passing this bill. This will not only increase the number of drunk drivers, but the amount of assaults and the number of underage drinking in our state parks. Also, since it is against the law to drink and drive on our state's highways, how does this affect our boats in the state park lakes? This will not be an asset, but a liability to our state park system. The amount of litter, damage to state property, and increase in extra enforcement of our rangers that alcohol promotes, this will only increase expense. In a time when our government is looking to cut expenses, the first areas that usually get cut are education and parks departments. Ask yourself how this will change our parks, and if they would be somewhere where we would like to take our children. You don't need to have a beer to be a better fisherman. You can enjoy the peacefulness of camping in the great outdoors without a beer or any other alcohol. Thank you for making a difference to the lives of our present and future Nebraskans. We urge that you not vote to pass this bill back to General File, and that it die in committee. Thank you for your time, and I'll be happy to open up for any questions. [LB478 LB576]

SENATOR KARPISEK: Thank you, Mr. Schmill. Any questions? Seeing none, thank you. [LB478 LB576]

ROBERT SCHMILL: Thank you. [LB478 LB576]

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SENATOR KARPISEK: We've got one coming up. Welcome. [LB478 LB576]

ROGER STINE: My name is Roger Stine, R-o-g-e-r S-t-i-n-e. My occupation...I was a park superintendent for the Nebraska Game and Parks Commission, and they'll tell you, I'm not here to represent them at all. I'm going to kind of take approach that Dick Turpin took. I'm very familiar with the Fremont state lakes. My dad was the first park superintendent there, and I grew up there. And I remember the way it used to be when he was there, and I see it the way it is today. And there was many nights that he was called out early in the morning by campers complaining about keg parties, people drinking and being lewd and disorderly, and having to break them up. And the next morning, I would have to go out on the beaches and pick up all the busted beer bottles and everything that they...the residue that they had left. And if we're worried about the environment, I mean, people used to cut their feet weekly at the Fremont state lakes walking the beaches because of busted beer bottles, and things like that. And I kind of take offense at we're worried about the almighty dollar. How much value do you put on a human's life? I saw a mother drown at the Fremont state lakes. In fact, I dove for the Fremont rescue unit when I was in high school, and I pulled her out and watched her seven children on the beach. And to tell them that their mother was dead because of alcohol was just...it's a memory that I will never forget. And like I said, I'm almost angry that you're worried more about the dollar than people's lives. And one year, early-sixties, we had eight people drown, and I don't have the official thing. But at least six of them were alcohol related. I pulled a girl up off the end of Victory Lake when I was a senior in high school that had her head cut off by a drunk boater at the Fremont lakes. And so, like I said, I'm...if you're concerned about the dollar, I guess that's one thing, but human lives to me mean more than we saved \$500,000 on a park permit. And there's a lot more reasons than alcohol for a park permit. And like I said, I was a park superintendent at the Fremont state lakes, and people came to the Fremont state lakes because they didn't want to go to Iowa, South Dakota, where there was drinking. Fremont was the big party place. That's where people came to party in the early years, and through time it's become a more family oriented type park. And I don't want to see the Fremont lakes go back to what it was. I guess I'm done, because other people have talked about things I wanted to talk about. Any questions, Senators? [LB478 LB576]

SENATOR KARPISEK: Thank you, Mr. Stine. Any questions? Seeing none, thank you. Any other opponents? (Laugh) She says no, not her. (Laughter) Any other opponents? Welcome. [LB478 LB576]

ROBERT TICHOTA: My name is Robert, the common spelling, Tichota, T-i-c-h-o-t-a, from Blair, Nebraska. I'm here on behalf of this opposing LB478, primarily because I have been a campground host for the state parks for 15 years now. I started out three years at Mahoney State Park, and the rest of the years I've been at Fremont lakes. I've been there ever since, and starting again this year, will be my thirteenth year there. And

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I can see what problems law enforcement had through the years in Fremont state lakes even when they're not supposed to be drinking there. And once someone mentioned about picking up cans, I'm one of them persons that pick up the cans on Monday morning, and there's a lot of them. And there's so many nights that as a campground host, they've come up to me and said, campground 43, those guys are really raising heck down there, and they're having a beer party, and we want to sleep. So I get ahold of security and security gets ahold of highway patrol, and it takes an hour or so to get it done. If that happens more frequently, how many people do you think will come to the state parks because it's quiet? Because they bring their kids out there to have a quiet time and get away from the hustle-bustle of the city, and they come out there and it's worse than the city, so they're going to stay home. They're not going to come out there, so they're not going to buy a park permit. They're not going to buy groceries at the local Hy-Vee store or wherever to come out for the weekend. And if you're going to base the amount of dollars on alcohol, let the other states have it. We don't need...we don't have to base our economy on alcohol. I like a beer now and then too like anybody else does, but in...and if they take it easy--and there are a lot of them that drink in the parks; we know that--and they're sitting there, and they're having a beer in their koozie, and they're having a good time and enjoying themselves, let's keep it that way. Don't open it up to all the ones that come out there and want a kegger, and have a real big party like one who said...years ago, they had a big party and it was not fun. I was there. In fact, I used to do that myself (laughter) years ago. I went out to Dead Timber when I was a young fella. We had a lot of fun out there (laughter), but I'm not proud of it. Thank you very much. [LB478 LB576]

SENATOR KARPISEK: Thank you, Mr. Tichota. Do we have any questions? Maybe we'll catch up with you after the hearing (laughter). [LB478 LB576]

GARY HILGENKAMP: Gary Hilgenkamp, G-a-r-y H-i-l-g-e-n-k-a-m-p, and I'm just an old grandpa out on the farm, and we love to bring our grandkids to the parks, and we bring their bikes and tricycles, and they ride up and down the pavement where it's easy riding, and the people really respect that. We don't have to worry about the traffic all that much. We can kind of leave them go out on their own, and that's the other thing too. I'm really fond of the Nebraska state parks. They're well patrolled and they're all neat parks. And otherwise, I'd just like to ask all of you, you know, Nebraska is known as the good life, and I'd ask you all to keep it that way. Thank you. [LB478 LB576]

SENATOR KARPISEK: Thank you. Any questions? Seeing none, thank you. Any further opponents? No more opponents? Do we have any neutral testimony? Welcome. [LB478 LB576]

ROGER KUHN: Thank you, Chairman. Members of the committee, my name is Roger Kuhn. It's R-o-g-e-r K-u-h-n, and I'm assistant director with Nebraska Game and Parks Commission, and we're testifying neutral. And I'm here to answer any questions if I can

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or provide any information that you might want to have. There was an earlier question about the number of law enforcement officers that we have with the Game Commission to enforce our rules and regulations and laws, and there's 58 officers in the field. There's a few more in the administrative end of it, but there's 58 field officers, and they have authority to, like I say, enforce the rules, regulations, laws including boating, water laws, fish, game, park laws and so. [LB478 LB576]

SENATOR KARPISEK: Senator Price. [LB478 LB576]

SENATOR PRICE: Mr. Chairman, thank you. Sir, to follow up with the 58 field officers, how many boats do you have available? [LB478 LB576]

ROGER KUHN: I couldn't tell you exactly how many boats we have in our inventory for law enforcement purposes. Sorry, I can get that information for you. Pardon me? [LB478 LB576]

SENATOR PRICE: But that are out on the water? Are these ones that are out on the water ready to go, like on Big Mac, the larger bodies that we have? [LB478 LB576]

ROGER KUHN: Yeah, generally, we have boats available on most of the larger bodies of water in the state for law enforcement or park needs. [LB478 LB576]

SENATOR PRICE: All right, thank you. [LB478 LB576]

SENATOR KARPISEK: Senator Dubas. [LB478 LB576]

SENATOR DUBAS: Thank you, Senator Karpisek. I guess I asked this question of Mr. Turpin, and I would ask you too, to just give me some more of the history, what it was like before. Was it just a gradual escalation up until it just got so bad that it was like, we just did the outright ban? [LB478 LB576]

ROGER KUHN: Yeah, just a brief history, maybe on the alcohol issue that...for clarification, that alcohol consumption was allowed on areas that the Game and Parks Commission leased. Areas the Game and Parks Commission owned, alcohol consumption was not allowed, and so there's that difference. As far as McConaughy or the specific escalation of the alcohol problems, Mr. Turpin stated that, you know, McConaughy wasn't the only issue; that's true. Branched Oak, Pawnee Lake, some of the Salt Valley lakes in the Lincoln area have had a history of alcohol issues as well. But the biggest issue, and the one that created the most attention, and ultimately created the ban on alcohol consumption was primarily Lake McConaughy. And I was out there in '94 as Mr. Turpin was, and the video was done, etcetera, and it had escalated over, you know, I think a number of years. It's hard to pinpoint exactly why, but probably the water levels had something to do with it, you know, the lake levels had dropped in the

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late eighties, early nineties, so there was a lot of beach. And I think it was one of those things that built momentum with a certain crowd of people, word of mouth, etcetera. You know, go out there. And there were no...I think it's important to note, there were no restrictions or regulations. You could consume alcohol in these areas 24/7 anyplace on the property. I think earlier question was asked by Senator Rogert about regulations and restrictions in some of the other states around Nebraska. I would just say in Missouri, as an example, they allow alcohol consumption except for in parking lots and on designated swimming beaches, so they have that restriction. And a number of these states that do allow alcohol consumption do have some restrictions, so it just varies from state to state. But the history of that was, you know, was presented to the commission. The comment about the National Guard, you know, I can remember that was some discussion held at the time, you know, given the situation in '94. But this was brought to the Board of Commissioners. Game and Parks Commission, as probably most of you know, the Game and Parks Commission currently has authority to regulate the alcohol consumption in parks. And in '94, in a commission meeting we had, that was one of the options available to the Board of Commissioners, and they opted to exercise that option on banning alcohol consumption throughout the park system and, again, primarily McConaughy, but also it made it consistent with the...all the park areas. Park areas that were owned by the commission already had a ban on alcohol consumption, areas that were leased did not, so it just blanketed every park area with that alcohol consumption ban. [LB478 LB576]

SENATOR DUBAS: Could you tell me the difference between what you have as leased and what you have as owned? [LB478 LB576]

ROGER KUHN: Well, we lease a lot of areas that we manage or administer for the benefit of the public for recreational areas, public recreation. So Corps of Engineer lakes, Bureau of Reclamation lakes, some irrigation district lakes, NRD lakes, we have agreements with those partners. So Lake McConaughy is owned by Central Public Power and Irrigation District. We lease it to provide recreation since that's not their forte or their business. Same with Branched Oak, Pawnee Lake, those are Corps of Engineers lakes, and we lease those to provide recreation, so that's how that's set up. [LB478 LB576]

SENATOR DUBAS: Thank you. [LB478 LB576]

ROGER KUHN: Um-hum. [LB478 LB576]

SENATOR KARPISEK: Senator Price. [LB478 LB576]

SENATOR PRICE: Mr. Chairman, thank you. Sir, one thing that I just was thinking about is, do you get opportunity to interact with your counterparts at a national...I mean, other states in national symposiums? [LB478 LB576]

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ROGER KUHN: Yes, we're a member of the National Association of State Park Directors and, in fact, I'm on that board for that organization. [LB478 LB576]

SENATOR PRICE: Great. Then maybe you can talk to...do they have a top ten list of problems that they have in the park and like that, of that nature, and where alcohol might fall in something like that? [LB478 LB576]

ROGER KUHN: I can't tell you that specifically. I've never seen a top ten list of problems in the park systems in other states. You know, there's a lot of issues dealing with public parks; the alcohol is one of them. Obviously, when you look at the surrounding states, it must have...it must not be such an issue that they've decided to exercise or their legislatures or their board of commissioners have not banned it. Now, you get outside the surrounding states, there are some states that don't allow alcohol consumption. I mean, it's not like 49 states allow it, and only one state doesn't. But the surrounding states, they all do, so that would probably be the best, you know, answer I can give you. I think in Iowa, in talking to that park director, they made...there was an attempt...I don't think it ever got a lot of traction, but I think within the staff, maybe there was an attempt to talk about banning alcohol or more restrictions on alcohol. But it just didn't get anywhere with their board or their senators, so. [LB478 LB576]

SENATOR PRICE: Thank you. [LB478 LB576]

ROGER KUHN: Yeah. [LB478 LB576]

SENATOR KARPISEK: Any others? Senator Coash. [LB478 LB576]

SENATOR COASH: Thank you, Chairman. Thank you, Mr. Kuhn. Can you shed any light as to why park permits are... [LB478 LB576]

ROGER KUHN: Pardon me? [LB478 LB576]

SENATOR COASH: Can you shed any light as to why park permits have declined over the past ten years? [LB478 LB576]

ROGER KUHN: Well, the numbers, and Senator Rogert pointed this out, you know, you look at the history of the park permit sales, and in '94 versus say, '95, there was about oh, 10,000 or 12,000 number of permits sold. Now, you know, there's a lot of variables, obviously. You could obviously attribute...that's pretty ironic in that one year it dropped that much. Now, I can go to '02 and '03...pardon me, '04, there was another significant drop in park permit sales. Now, that was primarily due to budget cuts that we received. There was, over a two-year period, a 17 percent General Fund budget cut, so we reduced services in our park areas. That had an impact the year after we reduced those

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services because, you know, people will...we find people will pay and don't have a problem paying for services if it's quality. When you start reducing services, you'll see an impact. So in that year, that was the impact. So that's a variable that had a play in the game as far as permit declines. I think another variable perhaps is...it's hard to say. There's just a lot of things...it could be weather, lake levels, economy, gas prices, there could be a lot of things. Families are busier than ever with youth programs, etcetera, so it's...there's a number of things. But there certainly was a significant drop between '93, '94, and '95 and that happened to be, so I think there certainly were some people that decided to go elsewhere that were going to the parks after that happened. [LB478 LB576]

SENATOR COASH: Thank you. [LB478 LB576]

SENATOR KARPISEK: Any other questions? Senator Dubas. [LB478 LB576]

SENATOR DUBAS: Thank you, Senator Karpisek. I know that Game and Parks is working on some programs to help rebuild our hunting and fishing... [LB478 LB576]

ROGER KUHN: To rebuild what, I'm sorry? [LB478 LB576]

SENATOR DUBAS: ...to rebuild hunting and trapping and fishing in the state, you're doing youth programs, etcetera. [LB478 LB576]

ROGER KUHN: Um-hum, right. [LB478 LB576]

SENATOR DUBAS: Do you see those having a positive effect on maybe getting more people into our parks, and do you have similar ideas in place to get more people into our parks? [LB478 LB576]

ROGER KUHN: Sure. We hope that has an impact, and that's why we're doing it. We're trying to go through the education route, exposure route. Families and the demographics and so forth have changed dramatically in the last 20, 25 years with families and rural people going to urban areas, etcetera, so we're trying to provide exposure or opportunities for people, especially young people, to get outdoors whether it's hunt, fish, park, just to get outdoors. And we have programs in place. We've done several expos that cover everything, canoeing, boating; it's not just fishing and hunting. This year we're doing what's called "becoming an outdoors family" program that's going to be done at Ponca State Park. We've done "becoming an outdoors woman" workshops for a number of years, so we're exporting that idea into the family part of it, and so we utilize our parks for programs such as that. Youth skill camps is another thing we do, and have done for several years. We host a lot of field trips through the school system, so, yeah, we hope by taking that step and being aggressive about proactive going out and trying to get kids work. We work with the school systems. We have the

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archeries and schools program which exposes kids. Anything getting them outdoors, I think oftentimes is interrelated. I mean, my own experience, I grew up near Louisville state lakes. As a kid, I went over to Louisville state lakes and hung around and walked around and fished, swam, etcetera, etcetera. You know, I had an opportunity to have a lot of exposure, and from that, it got me interested in the outdoors. I do hunt and fish. I didn't start out doing that. I was just going to the park and doing that. So, I think anything you can do to get them more outdoors is a positive thing and will lead into all those things, so. [LB478 LB576]

SENATOR DUBAS: Thank you. [LB478 LB576]

ROGER KUHN: Yeah. [LB478 LB576]

SENATOR KARPISEK: Any other questions? I would just ask, could you...you talked about the, oh boy, Corps of Engineers lakes. Is there..is Harlan County a Corps of Engineer? [LB478 LB576]

ROGER KUHN: It is, and the Corps of Engineers manages that lake themselves. [LB478 LB576]

SENATOR KARPISEK: So are the rules different there? I mean,... [LB478 LB576]

ROGER KUHN: Yes, they are. They do allow alcohol consumption at Harlan County, yes. [LB478 LB576]

SENATOR KARPISEK: And do we know, is there a lot more problem there? [LB478 LB576]

ROGER KUHN: I couldn't tell you there is. From what I know, I'm not aware of a lot more problems there, no. [LB478 LB576]

SENATOR KARPISEK: Is that our only Corps of Engineer lake? [LB478 LB576]

ROGER KUHN: That's managed by the Corps for recreation. I believe it is, in Nebraska. Yankton, they manage some of the areas on the tailwaters and some of them up the Missouri River, the Corps does. I think recently they've transferred those to the state, a lot of those, so. [LB478 LB576]

SENATOR KARPISEK: I think there's just a lot of confusion on what is allowed, and what isn't, and I think a lot of people just say, well, that's...that's fine. We're not going to...to say a lot about it. Thank you. [LB478 LB576]

ROGER KUHN: Right. [LB478 LB576]

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SENATOR KARPISEK: Any other questions? Seeing none, thank you, Mr. Kuhn. [LB478 LB576]

ROGER KUHN: Okay, thank you, Chairman. [LB478 LB576]

SENATOR KARPISEK: Any other neutral testimony? Welcome. [LB478 LB576]

HOBERT RUPE: Good afternoon, Senator Karpisek, members of the General Affairs Committee. My name is Hobie Rupe. I'm the executive director of the Nebraska Liquor Control Commission. Last name is Rupe, R-u-p-e. First name is Hobert, H-o-b-e-r-t. I usually go by Hobie. And, hopefully, I can answer some of your questions on confusion. First of all, the...at least according to the act, the statute which is mostly at play here is what's called 53-186. All right? Section 53-186, of course, it always starts off with an exception. Except for as provided in subsection 2, "it shall be unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property." That's really why we're here because Game and Parks...this ban is from Game and Parks. It's not a statutory ban contained in the Liquor Control Act. It's a ban that, Game and Parks has utilized based upon their own history. A lot of cities primarily also will allow consumption at certain events. A lot of times they'll own a community center, they'll allow a private party or function going there. They'll allow the consumption of alcohol at that point in time. All right. The second part of 186 is...which is the exception, "The Commission may issue licenses for the sale of alcoholic liquor at retail (a) on lands owned by public power districts, public power and irrigation districts, the Bureau of Reclamation, or the Corps of Army Engineers or (b) for locations within or on structures on land owned by the state, cities, or villages or on lands controlled by airport authorities. The issuance of a license under this subsection shall be subject to the consent of the local governing body having jurisdiction over the site for which the license is requested as provided in the Nebraska Liquor Control Act." Most of you have probably been on a governmental subdivision-owned liquor license. Any of you who have probably golfed on most public golf courses, those licenses are issued by the state. Usually they're issued to the golf pros. Lincoln is an example of how they do it. They have the golf...not the city of Lincoln itself, through an agreement, and then they get a liquor license. Well, that is allowed. Currently, if Game and Parks were to seek a liquor license for grounds owned on their grounds, unlike earlier testimony, it is already allowed by the act. Whether they've chosen to do this or not, that's a policy decision of Game and Parks. I just thought there was some misstatement of law earlier that they couldn't get a liquor license on the grounds currently; they can. And so, I guess we're neutral on those, and I'm speaking primarily upon the part of LB576 which dealt more with licensing, just to clarify it. I think it's...what Senator Rogert is seeking now is allowed underneath that act, under the existing statute. It might not be as clear as he's drafting it, but it is currently allowed under the existing state law. [LB478 LB576]

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SENATOR KARPISEK: Thank you. Any questions for Mr. Rupe? Senator Dubas.
[LB478 LB576]

SENATOR DUBAS: Thank you, Senator Karpisek. I'm glad that you came up, because this is something that I was not clear on, and I still don't know that I'm completely clear on it. Game and Parks has the ability now to issue a liquor license or... [LB478 LB576]

HOBERT RUPE: They don't issue a liquor license... [LB478 LB576]

SENATOR DUBAS: ...to...not to issue a liquor license, but to... [LB478 LB576]

HOBERT RUPE: Yeah. They could allow consumption much as they did previously in the early nineties where they had allowed consumption on certain parts of their ground. They could allow it. Now the problem that it runs into currently now, is then you have to be careful that you're not running afoul of 53-186.01 which sort of restricts consumption in places open to the public. That's why you can't just go down and open up a storefront and say, hey, come on in and have a beer on me, because if it's open to the public, a license is required. A lot of that is because of health, safety, and welfare to make sure that they meet fire codes, make sure that they're put. So an example of how Parks and Rec hypothetically could do it: say they have a picnic shelter, and you were to go to them and say, I'm having a birthday party for Senator Karpisek, we'd like to be able to have a couple of beers at this location, it's a private event, and it's only going to be going from 1:00 in the afternoon until 3:00 in the afternoon. It's within their grounds at this point in time under the first section to give you permission to do that for consumption. If you're going to be selling it or it's open to the public, then a license is required; either a permanent license or a special designated license. We give out quite a few special designated licenses, I believe, already on some Game and Parks, I think, and I could be wrong. Platte River has some locations, some halls where they might have...where they've had wedding receptions. And I'd have to double check so, but that's sort of the way it would have to work. It's depending on the usage, where they're seeking, and how they're doing it. [LB478 LB576]

SENATOR DUBAS: So, then what is this bill asking to do that they can't already do?
[LB478 LB576]

HOBERT RUPE: Not a lot. One of the key things where it does change is on 53-175, 53-176, and it will come up a little...yeah, I believe, in Senator Janssen's bill which you'll be hearing next, was it specifically designates Park and Recreation as the local governing body for control. It's a little bit weird language in there. As you're aware--if I start going through materials that people already know, I apologize--we apply for a liquor license. One of the things that the commission does after they receive it is, they send it to the local governing body to have a hearing to make a recommendation to the

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commission. If it's in the city or village or town, it's to that county board, to that city council. If it's outside the town, it's the county board. They make a recommendation to the commission. If they make a recommendation of denial, a hearing is automatically held, but the final determination is made by the commission at that time. The current statute uses weird language because it uses "with the consent." As a lawyer, I could probably argue that that just means the existing law in 53-134. Or, if I'm paid to go the other way, I could say, hey, it could be, you know, maybe they have to agree to it. So it does change that, because traditionally, 53-103, the definitional clauses of the Liquor Control Act, specifies that local governing bodies other than in this proposed bill are either the city or the county, depending upon where the license is sought. [LB478 LB576]

SENATOR DUBAS: Okay, thank you. [LB478 LB576]

SENATOR KARPISEK: Thank you, Senator Dubas. Any other questions? Seeing none, thank you, Mr. Rupe. [LB478 LB576]

HOBERT RUPE: Hope I made it clear as mud (laugh). Thank you. [LB478 LB576]

SENATOR KARPISEK: As usual. Any further neutral testimony? Seeing none, Senator Rogert, would you like to close? [LB478 LB576]

SENATOR ROBERT: Yes, please. All right, well, thanks for everybody here coming in to testify today, and for your attention as a committee. Senator Dubas, I think your final question to what this does...LB478 does push it in that direction. Rather than say they can, it just says...it makes it legal. But it also leaves a lot of room for rules, and I think where we got into trouble in the past is there weren't any rules, and no restrictions. And it was just...you could do whatever you wanted, wherever you wanted, and if there wasn't a complaint or you didn't get necessarily out of hand, or nobody was saying you were out of hand, you could do it, and it just kind of got the ball rolling into a pretty quick fashion. Just a couple of comments on some of the testimony. I love our parks, absolutely. I think they're great, and I don't...nobody wants any problems. This bill comes as an answer to many folks that have called me and asked me and questioned me over the past couple, three years why we have this restriction. I said, well, let's figure it out. Let's discuss what happens if we take the restriction off. And not diminishing any of the tragedy, much of this testimony comes from a wish that there wasn't any alcohol, period. And that's not what this is about. This is a parks bill, and, unfortunately, there will always be tragedy connected to alcohol. There's always tragedy connected with guns. There's always tragedy connected with tobacco and gambling and driving too fast. And it seems like if we wanted to eliminate all the tragedy, we'd take away all the guns, drive 50 mile an hour, ban all alcohol and tobacco, and just lead our happy little lives, but that isn't what we do. And I'm constantly asked and constantly challenged, and as are we, to find a way to lower the taxes for the citizens of Nebraska.

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All our neighbors, according to all our citizens, have lower taxes. Why are we so high? I say, well, we don't have gambling. We don't have alcohol in state parks. We don't have a lot of things that our neighbors may have. We don't have as many people as our neighbors may have. So, Nebraska is the good life, I won't disagree with that, but the good life may come at a high price tag. It just costs more money. And if that's where we want to stay, that's okay. I just want folks to understand that this is where we have to teeter back and forth on the line. Where do we try to keep folks to do what they want to do, try to keep them in line, yet bring in as much money as we can, and keep them here, and keep them happy? So, it's a good bill for discussion. We haven't talked about it in a long time. I'd entertain any further questions if any had any, but I'll wrap it up there. [LB478 LB576]

SENATOR KARPISEK: Thank you, Senator Rogert. Any questions for Senator Rogert? I would like to say, Senator Rogert, you are right. You and I have often said, these are ideas. And sometimes we need to sit down and throw those ideas out for the public to have a voice, and I have to say that they've come in today and had their voice heard, and that's why we're here. I appreciate the people coming in... [LB478 LB576]

SENATOR ROBERT: Absolutely. [LB478 LB576]

SENATOR KARPISEK: Thank you. [LB478 LB576]

SENATOR ROBERT: Yep. [LB478 LB576]

SENATOR KARPISEK: That will end the hearings on LB478 and LB576. We will now open on LB664. Senator Janssen. We'll wait just a little bit for anybody who wants to move on. Okay, we will get going with LB664. Senator Janssen. [LB478 LB576 LB664]

SENATOR JANSSEN: Good afternoon, Senator Karpisek, members of the General Affairs Committee. For the record my name is Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent the 15th Legislative District, which is Fremont and Dodge County which I heard quite a bit of testimony about in the previous hearing. I would like to say right off the bat here that this is...and the reason I asked for a separate hearing is this is really a separate issue from the hearing you just got done with. And Mr. Rupe even touched on it a little bit, of what we're trying to accomplish here is more of a clarification of that. I think he left; he said "clear as mud." I'm trying to clarify some of the ways in which liquor licenses are applied across the board, so that's really...he laid some pretty good groundwork for me. I believe he's going to come up and testify in the neutral as well. I appear before you today to introduce LB664. The purpose of this bill is to bring more uniformity to the liquor license approval process for applicants who wish to establish businesses with locations on certain public lands. At present, if an entrepreneur wishes to establish a business that sells alcohol at retail at certain public lands listed in 53-186, they must not only receive approval from the Liquor Control

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Commission, but also preemptively be approved by the local governing body having jurisdiction over the site. LB664 would provide uniformity to the liquor license application process by applying the same licensing process...I'll say again, by applying the same licensing process in these listed public areas in those and other retail license situations. If LB664 were in place, entrepreneurs would be treated the same when applying for liquor licenses regardless of the ownership of the property upon which they exercise their right to earn a living. I am a strong supporter of local control as well as a strong supporter of the right to make a living and earn a profit. I think it is appropriate that the state treats businesspeople fairly and applies standards in a uniform and fair manner. In my legislative district, as I noted, the Fremont state lakes is a major recreation area. There are few establishments that provide made-to-order food and no establishments that serve legal adult beverages. Some of that may be due to the seasonal nature of the lakes, but some of my constituents feel that it may be the reluctance of the people to negotiate this section of state law. I am also aware that one of the seasonal businesses at the lakes has a specific clause in their lease with the Game and Parks that they are not authorized to sell or consume alcoholic beverages. LB664 would do nothing with that. It would just clarify that how this license were to be obtained, so the lease between Game and Parks and the person at the Fremont state lakes does not change by this legislation. If they were to renegotiate someday, and the leaseholder wanted that in there, they would have to take that up with Game and Parks as you heard previously. I feel that it is appropriate to let the Liquor Control Commission, our state's professional governing body for alcohol licenses, determine who is qualified to sell alcohol. Many local governing bodies do not have the membership with experience to independently and professionally evaluate a businessperson's ability to responsibly sell alcohol. I do not feel it is appropriate for responsible businesspersons to be punished by sometimes arbitrary decisionmaking processes. The commission is better suited to handle this important regulatory decision. Formerly, I served on the Fremont City Council, and I can speak from firsthand experience the difficulty in fully comprehending our liquor laws. I think we've seen that here today as well. It is difficult with so many other responsibilities as a council member or local governing body for the membership of local boards to become experts in liquor control act as well. I feel that some bodies and boards are not treating applicants in a uniform manner which could open them up to an unintended liability. LB664 does not...again, I said it does not permit the drinking of alcohol on state park grounds. This proposal simply permits entrepreneurs to apply for liquor licenses for their establishments in the same manner as all other applicants regardless of whether the state owns the land under which their business operates. I have met with Game and Parks commissioners and staff to notify them of this proposal. It is my understanding that they are investigating the possibility of possibly offering legal adult beverages in certain state parks in the future. Mahoney State Park may present a good opportunity for that. Other recreational areas may also present unique opportunities to increase attendance and encourage longer stays. I'll say in Fremont--and maybe Director Amack will get up and testify in maybe neutral or maybe for this--but I would say that we have some community centers we're trying to...I said Amack; I got that wrong, but Kuhn is

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what I meant. I'm sorry, mixed up here. We have community centers, I think they're putting in out at the state lakes in Fremont. They're not yet open, I believe due to budgetary concerns. But it was a concern of ours at the time as local business leaders that we would have functions out there, perhaps Senator Karpisek's birthday party that's going to last for two hours in the middle of the afternoon (laughter). So, we were...in talking about how we would go about doing that, how the license process would be there, I found out, yes, there is a process for that. But it wasn't clear if the city council or, in this case, the Dodge County supervisors would have the authority to say yea or nay on that. It's just not clear out there right now if that would have to be overridden by the state. So what we're seeking here is clarity. And uniformity and fair treatment of our state's entrepreneurs are the goals of LB664. So I appreciate your time this afternoon. I'd be happy to answer questions that you may have regarding this. [LB664]

SENATOR KARPISEK: Thank you, Senator Janssen. Any questions? Senator Dubas. [LB664]

SENATOR DUBAS: Thank you, Senator Karpisek. So, Senator Janssen, with your bill, who has the final say on whether a license is granted or not? [LB664]

SENATOR JANSSEN: It would be the liquor commission, which is the same way for, you know, when I was on the city council, if 7-Eleven asked for a liquor license, it would come to us, and we would say yea or nay. And I do know on one occasion, the reason for saying no was because, I believe that it was a church located too close, which is not a reason for turning down a liquor license. So that's where I would say that I personally lacked, you know, the information to make that decision at that time. Now we sent it on with a recommendation, and then it went to the State Liquor Commission, and they correctly ruled that the businessperson, entrepreneur, has a right to legally sell a legal product. [LB664]

SENATOR DUBAS: Okay, thank you. [LB664]

SENATOR JANSSEN: Yeah. [LB664]

SENATOR KARPISEK: Thank you, Senator Dubas. Any other questions? Senator Janssen, I'm going to try to have that a little farther cleared up for myself, too. So this would go to the county board first, and they would recommend yes or no, and then send it on to the liquor commission? [LB664]

SENATOR JANSSEN: In the case of the Fremont state lakes, which would fall under their jurisdiction, yeah, it would go to the supervisors in the exact same manner that it would happen to all other businesses not on public lands, and they would give a recommendation on that. And I believe at that point, if it's approved, it's pretty much just taken care of. If it's sent up without a recommendation, then there would be a hearing

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set up for that, and they go that route. [LB664]

SENATOR KARPISEK: Do you know if...could you just make it an on-sale? You're proposing they could be on-sale, off-sale, just like a regular bar? [LB664]

SENATOR JANSSEN: In this case, you know, if you look at...or Mahoney. I've never been to Mahoney, so I'll speak of the Fremont state lakes which has a very small kind of an eating area and almost a snack bar, if you will, with food to eat there. You could...if negotiated in the Game and Parks lease...again, we're not legislating that...I'm not going to the Game and Parks and saying, you have to allow the entrepreneur at Fremont. In fact, I have not even spoken to the entrepreneur that owns the Fremont bait and tackle shop, as I'll call it. And, you know, you could...if they negotiate that in the lease, yes, you could have an on-sale site. You know, at current, you can't drink out on the lake, so you couldn't take and buy something and take it out there. But it would be available there, and it would be in a controlled area. In this case, you would be talking about if it was a sale on-site, it would be much easier to regulate as well. [LB664]

SENATOR KARPISEK: I guess that's where I'm trying to get at. So they could have...serve drinks inside, but you wouldn't be able to drive...go in there and get a case of beer and leave? [LB664]

SENATOR JANSSEN: At present, I believe, the way the law is. But also, at present, you could apply for a special permit to consume alcohol at the site that I'm talking about in Fremont, and that's where this would clear up the process for that. If you go in to get your special permit for this birthday party, and it could be, you know, possibly the people...the good people of Dodge County don't like Senator Karpisek, so they don't want to give you your birthday thing. And it's unclear whether or not they could stop and say right there, okay, we said no, so that's where it stops. It's unclear whether or not they have the veto power. You can read it one way or the other way, and it cuts both ways. This clears it up, and it makes it uniform across the board with the way local governments are used to handling such requests. [LB664]

SENATOR KARPISEK: All right, thank you. Any further questions? Seeing none, thank you. [LB664]

SENATOR JANSSEN: Thank you. [LB664]

SENATOR KARPISEK: First proponent of LB664. Be careful, Senator Janssen, they're going to mob you (laughter). First opponent of LB664. Welcome back. [LB664]

DIANE RIIBE: (Exhibit A) Hi, Senators. Again, my name is Diane Riibe, R-i-i-b-e, and I'm the director of Project Extra Mile. We're dedicated to preventing underage drinking and youth access to alcohol, and I'm providing you comments that I have prepared, but

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I'll just keep it very direct and very clear. This proposal could be referred to as a preemption bill, because essentially what it does...it does not change the process by which a license goes through, an application goes through the system. It changes the place in which an (inaudible) stop can happen. Right now, the city council, we'll say as an example, is the local governing body that may oversee that park. The statute, 53-186, requires that that city consent to that license happening. One might think liability would happen there. You would hope the city council would have opportunity to consent or deny that. Yes, it has to go on to the commission, but if that denial is there at a local city level, it looks pretty clear right now that the commission is not going to be able to override that lack of consent on public property. That would be the huge concern that we would have. Similar to...and I wish Senator Rogert were here. This is not, and none of these are this afternoon, about prohibition and not desiring of alcohol in locations. Quite frankly, the people and the citizens of this state desire and deserve to have advocates who make certain that appropriate policies and practices are in place, so that we can balance the public health and safety concerns with the business concerns. There are plenty of advocates for the business world in this community, in this state, and we have to be able to look at the impact and the damage that this product does to our communities and our families, and that's an appropriate consideration, and an appropriate part of this discussion. So I guess I would, just again reiterate, this does not change the process by which a license is granted, but this does apply to all licenses including special designated licenses. Let me be clear. Special designated licenses right now can be stopped absolutely immediately at the local level. So if there was a desire to have an SDL, as they're referred to, at that local city park, that city council could say no, and that SDL...those kind of temporary permits, that would not even go onto the commission as an appeal. That's stopped there locally. It gives local cities, local governing bodies, local communities the opportunity to have some desire to create their community in a way that reflects their community norms and standards. So we would strongly oppose the bill. We would ask that you stop and consider, this is not a clarification in any fashion. It is a removal, and it's a preemptive strike for local control. It no longer allows citizens to come to the city council, local municipality or the county board, and be as active a voice as they could be if we did not pass this particular proposal. So I thank you for your thoughtful and deliberative consideration. [LB664]

SENATOR KARPISEK: Thank you, Ms. Riibe. Any questions? Senator Price. [LB664]

SENATOR PRICE: Mr. Chairman, thank you. Ma'am, so let me get this straight then. Right now, a public group can stop something in its tracks before it goes to the commission, and the commission won't be able to overrule that local community? [LB664]

DIANE RIIBE: No. Because the difference, Senator...and it's important to understand the distinction, so the question is very good. This proposal talks about publicly owned lands, all right. So the process for granting a license, no matter where it's at, remains

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the same. But if it's at a publicly held land, another section of the statute, 52-186, requires that local municipality to grant consent. All right, so that's different. Any license that comes forward, any application comes forward, there is a process for granting that license or going through the renewal process. That stays intact, and that still remains, so that is there, and that is allowed in terms of that oversight. This only on public lands removes the consent, so, no, the commission would have that ability to have that discussion. Local citizens cannot stop it. A standard permanent license at the local level, that's part of the consideration that the commission has. You... [LB664]

SENATOR PRICE: Okay, I kind of glazed over there. [LB664]

DIANE RIIBE: That's okay (laughter). [LB664]

SENATOR PRICE: So please forgive me, okay? [LB664]

DIANE RIIBE: No, that's fine. [LB664]

SENATOR PRICE: As it stands right now--and a public place we're talking about, right? [LB664]

DIANE RIIBE: Um-hum. [LB664]

SENATOR PRICE: Can a local body kill an application? [LB664]

DIANE RIIBE: It looks like the answer would be yes. Under 53-186, it actually says...and I know this is a little challenging if you don't deal with it all the time, so I appreciate that. Under 53-134, it outlines the opportunity for review of that process in terms of the city going through kind of the larger piece. But under 53-186, it says the issuance of a license under this subsection shall be subject to the consent of the local governing body having jurisdiction over that property. So, yes, the local city council would have to grant that approval before going on to the commission on those public properties. [LB664]

SENATOR PRICE: And if we were to pass this, no matter what they said, it wouldn't be given any consideration? It would just be the commissioners who make that decision? [LB664]

DIANE RIIBE: Essentially, yes. Let's say the city of Grand Island decided that it had an application for a city park and a liquor license at that city park area, again, on public land so it's not forbidden by state law. But the city council said, we clearly do not want that. And so they move a recommendation to deny that application to the commission. Under current statute, the commission has to say, they don't have consent because it's public property of that local city council; we're not going to approve it. This allows that to be much more opened up, and does not give the weight to the local city council in that

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voice there locally. [LB664]

SENATOR PRICE: Okay, thank you. [LB664]

SENATOR KARPISEK: Thank you, Senator Price. Any other questions? Thank you, Ms. Riibe. I'm right with Senator Price. I'm sure we're about just as confused the same, so thank you for stepping us through that. And I'm sure that we'll get a little farther. Thank you. [LB664]

DIANE RIIBE: Thank you. [LB664]

SENATOR KARPISEK: Any further opponents? [LB664]

BOB SCHMILL: Looking to see who was getting up and who's not getting up. (Laugh) [LB664]

SENATOR KARPISEK: Welcome back also. [LB664]

BOB SCHMILL: (Exhibit B) Welcome. Thank you very much. Pretty much what I had...oh, I'm sorry. Chairman and members of the committee, my name is Bob Schmill, and that's B-o-b S-c-h-m-i-l-l, and I'm the president-CEO...or, I don't know if it would be CEO, but the president of the Matt's Dream Foundation. I pretty much...a lot of the information I already have told you about as far as on the last two bills that I was here with. But that it's...this is one that, again, it's giving another way, not taking away a voice of us, of the people, as we see it. And that with, as I had stated before, with Nebraska having more and more locations...if you go to the east coast and you want to buy alcohol, you have to go to a state-run facility. It's not at every Kwik Shop. I mean, it's kind of silly that you go to a Kwik Shop to buy gas, and you're going to buy beer, and you're going to drive away. Not that you're going to drink it while you're driving, but it's kind of strange that you're buying your beer where you get your gas to drive your car. But as far as the...again, taking the voice away, we're the fourth drunkenest state in the United States. I mean, that's nothing to be proud of, and things need to change. As far as...this is kind of going back a little bit because I sense there's something that you have as far as with lakes maybe a little bit, Senator Price. But off of what's not on that sheet, I was a diving instructor, and I taught the dive teams for the Omaha Fire Department, Douglas County Sheriff's Department, and Lewis Township over in Council Bluffs over in Iowa. And during that time, I pulled two drunk swimmers out of the water, and one that I decided that they drove in in his car into the river, and assisted in three others with those mentioned teams. The thing is, is when you...and with the majority of all six of those instances, I was the one that was holding onto that victim. I was the one that brought that victim ashore. And you look in the eyes...the first time you look in the eyes of that victim's family, you get a whole different sense of what needs to change, and what needs to happen. But I just wanted to...if you do have that chance, and I'd be glad

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to be able to give you that chance to be able to look into another victim's eyes, but you're looking into mine. But it just seems...it seems that this needs to be kept the same as it is now, and you still keep the voice of the citizen in there so that we can voice our opinion. This, we wouldn't be able to. And I'll open up for questions. [LB664]

SENATOR KARPISEK: Thank you, Mr. Schmill. Any further questions? Seeing none, thank you. [LB664]

BOB SCHMILL: Thank you. [LB664]

SENATOR KARPISEK: Any further opponents? Anyone testifying neutral? [LB664]

SENATOR PRICE: We need to get him his chair. [LB664]

HOBERT RUPE: Thank you, Chairman Karpisek, members of the General Affairs Committee. My name is Hobert Rupe, H-o-b-e-r-t R-u-p-e. I'm the executive director of the Nebraska Liquor Control Commission, and what I'm going to say is going to be shocking. Diane and I agree on some parts of what she said, and we disagree on other parts of it. All right. Just at the risk of sounding too much like Mr. Turpin earlier, you know, at least I'll try to give you an understanding of how a normal liquor license application goes forward. All right. A completed application is filed with the Nebraska Liquor Control Commission, and that includes the application form, that includes copies of the fingerprints of the owners or the principals of a corporation, and includes a check for the patrol to run their background check, also has a copy of the lease that shows they have a property and its location. Okay, once we have that stack of paper, a clock starts ticking. We send those documents out to the local governing body--if it's in the city, it would be the city council; if it's in the county, it would be the county commissioners or county supervisors depending upon how they're set up. Once they receive it, they have 30 days to send a recommendation back to the commission. All right. If it's recommended approval and the background check comes back clean, also at that time we also send out to the fire marshal and to the patrol and to the Department of Ag for health and safety issues. So there's four or five people looking at this application all at the same time. If the Department of Ag says it's a good place, the fire marshal says it meets their criteria, the local governing body recommends approval, the patrol, there's nothing which flags up on the background check...again, these are fingerprint checks run through FBI. And people sometimes forget that, that we actually...we don't ask for those fingerprints just to wallpaper my office, but we actually use them for the purpose for which they're supplied. If that happens, then after we get the approval back from the city, we still have to wait an additional ten days for additional public protests when it comes in. So by the way it's factored in right now, the soonest you can probably get a liquor license--and that's including everything hits a green light going all the way through it--is probably 45 days. All right. If any of those things hits a problem, we don't issue until Fire approves it; we don't issue until Ag approves it. If the

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patrol flags it for a possible...either a bar or a character reputation type conviction, we'll have a hearing for it. And if the city council recommends denial, there's two times when a city...when an application must have a hearing in front of the commission. The first is receipt of a denial by the city council or local governing body, or the receipt of an objection by three or more citizens where the business is located. Any of those things come in; it goes through a hearing, all right? So, and then they would have to come before the commission, usually, and show cause, show cause of whether they should get the license. They have to address the concerns. If it's the citizens, the citizens have an opportunity to come in and address the commission prior; they start off the hearing. And if the city council or county board recommends denial, they can send a representative to appear in front of the commission to make the decision. All right. What this bill does is puts land on governmental agencies under the same process. It doesn't have consent. Now the area where Ms. Riibe and I disagree on is I don't think it has anything to do with special designated licenses. Special designated licenses would be like Rib Fest would have a special designated license. Museums will often get those. Political parties will get special designated licenses. Those are under a different statute, 53-124.11, and it clearly says, subsection 4, "No special designated license provided for by this section shall be issued by the commission without the approval of a local governing body." So special designated licenses are not included in what I think Senator Janssen is looking at underneath here. And there's one very easy mechanical reason why. The time frame that the commission and the local governing bodies have to deal with those applications is a lot smaller than we do for full applications. The requirements in the statute are less. Usually, there's only two types of people who can get an SDL. Either you're already an approved licensee, so you've already gone through the process, or you're a nonprofit entity which is specifically allowed by the statute, primarily political parties, nonprofits, churches, they can get SDLs. Right now, we're coming up on issuing a lot of SDLs primarily to churches who are getting the...who want to have beer with the fish fries, and they have to get a special designated license. If the city of Omaha, for example, were to say no, we never even see that. I mean, it stops there, because it must meet with approval. So I don't think this proposed statute will change the special designated license statute one iota because it's specific on SDLs. What this does is this sort of makes a...it's arguable under the existing statutory scheme that the only permanent license that we treat the same way as we treat an SDL would be on land owned by a governmental subdivision or by the state. The example could be--and I'm not sure if they're going to do it, and Roger will probably wince when I say this--let's say Game and Parks decided they wanted to get a restrictive restaurant license for the lodge at the Mahoney State Park. They're trying to compete with other restaurants, and they feel they can do that. Under this existing statutory scheme, Cass County could say no, and it just would stop it. They wouldn't even have to give a reason why. Normally, if a county board gives a recommendation, they recommend under one of the...we often call it the laundry list in 53-125, a reason why this individual should not get a liquor license. Usually it's because there's a felon. I always have to tell everybody, you know, hey, you can't get a liquor license if you're a felon. You also can't get one if you're a cop,

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you know, under the statutory. You can't get one if you're a law enforcement officer. And so, statutes...so county boards and city councils will usually refer, here's why we're getting it; here's our recommendation. All right. Under the existing scheme, it's argued that Cass County could say no and not even give a reason, because of the word "consent." Whether you want to keep it that way, that's your decision. You're the ones who wrote the law; I just was trying to explain sort of the application of the proposed change as to how it's currently done. And, hopefully, I haven't bored everybody to tears. [LB664]

SENATOR KARPISEK: Thank you, Mr. Rupe. Senator Price. [LB664]

SENATOR PRICE: Senator Karpisek, thank you. Mr. Rupe, a quick question. Given the number of applications for a license and citizens' denials, can you talk to how many times a citizen's denial in a regular application process has resulted in the denial of a license? [LB664]

HOBERT RUPE: I would say, I can't tell you exactly the number. We get approximately 650 new applications per year for retail establishments. Most of those are replacements for existing licenses. Somebody's selling their business; somebody else is trying to buy the business. The commission gives great deference to recommendations by the local governing bodies and also great deference to the...you know, the views of the citizens. I mean, we just had...last fall we had very...a host of very lengthy hearings, because there were...they dealt with a lot of complex issues, where the citizens were the ones who brought the issue forward, because the city had approved it, and the commission decided that the grounds given by the citizens on certain of them were valid and upheld, and denied the license. The commission, you know, they really go into looking at the local governing body, and the citizens are the ones who are actually there, and they can tell us things that nobody else can. We do get some of that information when the patrol goes out and investigates it, and so we give great deference. But, unfortunately, the commissioners will make an independent decision based upon the applicable law as to whether it happens. I'll give you an example, and it's not a great one in a lot of ways. About a year or two ago, we had a small town. I will allow them to remain anonymous to protect the guilty. An individual wanted to open up a convenience store that was also going to have an on-sale part, a small restaurant. You know, a lot of times small towns...the one bar, I mean, it's almost one of the few businesses going there. He wasn't from that town. The city council recommended denial of that application, because they said, "We have enough liquor licenses to meet the need and convenience and necessity" which is one of the reasons...things the commission has to look at. They sort of hurt their argument when a week later, we got a recommendation from approval for somebody across the street for exactly the same business setup, but he was a local individual. And so they were using that as a way to sort of control who they were getting a license for. The commission ended up giving licenses to both of them, because they both met the criteria. The city sort of hurt its argument, because (A) you know, you can't

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say there's enough licenses on the 15th and say, oh no, we need this guy on the 30th. And also, the city didn't show up to argue their point, which sort of didn't help their cause. So, I mean, that's one reason why I think the final decision...the commission will look at that, because we try to apply what's in those statutes, and also adds to the court interpretations thereof. People always forget that a lot of times laws are somewhat modified by those gentlemen and ladies who wear the black robes. [LB664]

SENATOR PRICE: Okay. And the follow-up finally, do you keep, for a matter of public record, the reasons why you denied a license? So, in other words, is there a repository where I can go back and look at the 650, and of those that were raised where either the three people came up or the local community denied it, you can see exactly how many times it was...? [LB664]

HOBERT RUPE: Yeah, we keep all the records now. And I'll tell you right now, we don't get 650 recommendations of denial. That's roughly how many new licenses we deal with. Most licenses go through, as I said earlier, without...you know, there's not an objection by either a local person or by the city. There's not a problem with the licensee or with the location. [LB664]

SENATOR PRICE: Is that a public record, though, that...? [LB664]

HOBERT RUPE: Yeah, we have a public record, and we have all those...any time we deny a license, it's public record and order. We would have to go back. I think we keep--Mary back in my office will probably yell...cringe at me if I get this wrong--I think we keep three years on-site, and after that, we microfiche them. But we have a process, so they're available, depending on how far back you'd like to look. [LB664]

SENATOR PRICE: All right, thank you sir. [LB664]

SENATOR KARPISEK: Thank you, Senator Price. Any further questions? I'm going to ask Mr. Rupe one more time the way we do it now, and the way this bill is proposing. Right now the way...one more time quickly, just how we do it, how this bill proposes. [LB664]

HOBERT RUPE: This bill would do it...would treat an application, whether it's on a state ground or other publicly owned ground, exactly the same as any other licensee; 53-134 is a statute which enumerates the powers of local governing bodies. I believe it's subsection 8 of that goes through their ability to have a hearing and make a recommendation. They would still have that say. Citizens can still approach the city and approve that. All this would do would do away with the ability of them to have a veto just because it happened to be on state ground in this case. So that's basically... [LB664]

SENATOR KARPISEK: Thank you. Any further questions? Seeing none, thank you, Mr.

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Rupe. [LB664]

HOBERT RUPE: Thank you. [LB664]

SENATOR KARPISEK: Any other neutral testimony? Seeing none, Senator Janssen, would you like to close? [LB664]

SENATOR JANSSEN: Thank you, Senator Karpisek, members of the committee. I would first...just to clarify a few things, Mr. Rupe was correct on special designated license. That's actually the reason I looked into this was wondering how those applied, and they apply in the same manner this local control is. Many of us that were on our municipal boards previous understand how those work. This bill, LB664, does not change that, and was not the intention of changing that. And I think a lot of...almost unfortunate that the bill came today, because I think a lot of the...well, a lot...there was only a little. But the opposition testimony is, you know, based on what they had just heard, and that's unfortunate. I have no idea what swimming qualifications has to do with this bill. You know, I've heard it in the last bill about swim instructors; I heard it in this bill. And I guess, for the record, I'm a U.S. Navy search and rescue swimmer and served in Desert Storm, if that gives me any more credibility to discuss this particular bill. I, too, have pulled people out of water. LB664 shows nothing in their eyes. This is a clarification. It truly is. And one of the things I can say is, you could say, Mr. Rupe or Ms. Riibe, who I usually see in Transportation, but we're both down here today, you know, they may not agree on much, and they're right. But the one thing I'll agree is, from my limited workings with them, is they both understand these statutes in our liquor statutes, which are very difficult, as we're all finding out, to understand. And, you know, so when Mrs. Riibe said this isn't a clarification, and Mr. Rupe comes up and says it is, I think it's...there needs to be a clarification here. And like it or not, they both understand what would happen with the passage of LB664, and that is the definition of clarity. You may not like the clarity in some cases, but that is the definition of clarity, and that is what LB664 will do. So, if there's any questions, I'll be happy to answer. [LB664]

SENATOR KARPISEK: Thank you, Senator Janssen. Any questions? Seeing none, thank you. [LB664]

SENATOR JANSSEN: Thank you. [LB664]

SENATOR KARPISEK: That will end the hearing on LB664. Next we'll hear LB605. Senator Howard. [LB664 LB605]

SENATOR HOWARD: Thank you, Mr. Chairman. [LB605]

SENATOR KARPISEK: Waiting my whole career for this (laugh). [LB605]

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SENATOR HOWARD: Thank you. Could I have a glass of water? I went off and left my water in Education. Thank you. [LB605]

SENATOR KARPISEK: Sure. Would you like me to get it for you or...? (Laugh) [LB605]

SENATOR HOWARD: Well, I'm not really picky about that but (laughter)... [LB605]

SENATOR KARPISEK: Well, you may want the page to get it just so you... [LB605]

SENATOR HOWARD: We have a few handouts for you as well so... [LB605]

SENATOR KARPISEK: ...know what you're getting. Any time you're ready, Senator. [LB605]

SENATOR HOWARD: (Exhibits A through D) Thank you, Mr. Chairman and members of the General Affairs Committee. I'm Senator Gwen Howard and I represent District 9. I'm here today to introduce LB605 which addresses some much-needed changes to show how the privilege, and I emphasize privilege, of having a liquor license is handled in Nebraska. I introduced this legislation after 12 neighborhoods in eastern Nebraska spent over a year opposing four off-sale liquor licenses for the Infinite stores. After being personally involved in these cases, I've seen the tremendous disadvantage that neighborhood residents have had to deal in opposing these licenses. After having had to come to Lincoln on their own time multiple times to appear before the Liquor Control Commission, and after that commission denied all four licenses, not once but twice, the process has started all over again for a third time. I share the frustration of our constituents who feel that no matter what they do, the process is stacked against them. I would like to briefly describe what is included in my bill. Several times during the hearings on the Infinite stores, it was stated that the residents and the neighborhood associations did not have to be listened to because there was no specific language in the statutes, despite the Nebraska Supreme Court ruling in the Orchard Hill Neighborhood Association v. Orchard Hill Mercantile and Nebraska Liquor Control Commission in 2007, and you received a copy of that decision, I believe, that ordered the Liquor Control Commission to consider neighborhood evidence on the negative impact liquor licenses have on the neighborhoods. This bill would allow for additional weight to be given to the concerns of individuals and businesses within 500 feet, and neighborhood associations within 100 feet of a liquor license application. This would apply both to support or to opposition to a proposed liquor license. Many communities in Nebraska, especially neighborhoods in my legislative district, have seen a dramatic increase in the number of off-sale liquor outlets. You will be hearing expert testimony from Dr. Rebecca Murray of Creighton University and Dr. John Crank from the University of Nebraska at Omaha about their research on how off-sale and convenience store outlets impact a community. More liquor outlets are not the kind of economic development that is needed in established neighborhoods and communities. Let me

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give you an example of this concentration. Gifford Park is a neighborhood in my district located at 33rd and California Streets. For years, residents have been fighting crimes like robbery, assault, public intoxication, and shootings. If you stand on the corner of 33rd and California, you will see alcohol available on three of the four corners. If you walk down 33rd Street, you'll find several more businesses selling alcohol within a single block. As more liquor licenses have been granted in the neighborhood, the crime rate, as you might imagine, has also increased. The neighbors are not asking to completely eliminate alcohol sales. What they want is reasonable limitations and that their voice be heard by those granting the privilege of having a license. Another problem with our licensing process is...that has come to my attention through the Infinite case, is the current practice by the Liquor Control Commission of granting the use of an existing liquor license by a new owner through temporary agency agreements. Throughout this past year, I've heard attorneys for license applications repeatedly claim that they have a right to a license if the premises previously held a license. The attorney for the Infinite stores, Mr. Michael Kelly, was quoted in the Omaha World-Herald on April 19, 2008, saying that when the Infinite stores were bought, the owner, and I'm going to quote this, "believed the liquor license would automatically come with the sale as has been common practice." This attitude and common practice appears to me to be directly contradictory to what the Legislature has set out in statute and what the Nebraska Supreme Court has ruled in numerous decisions since 1937. Nebraska Statute 53-149 states, "A license shall be purely a personal privilege, good for not to exceed one year after issuance unless sooner revoked as provided in the Nebraska Liquor Control Act, and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable"--meaning capable of being sold or transferred--"or transferable, voluntarily or involuntarily, or subject to being encumbered"--burdened with legal or financial obligations--or pledged to a creditor as security for a loan. The statute goes on to say that the only exemptions are when a partner in business dies or a spouse in the business dies, then the license can be passed to the surviving partner or spouse. And here is an example. If you bought a plumbing business, the state of Nebraska would not allow you to operate the business under the previous owner's license until you were able to get your own license. The same is true with a medical license, electrician's license, a teaching license, nursing license, and even automobile license. In fact, I could not find any other instance where someone is allowed to operate under a previous owner's license until they were able to obtain their own license. The question then becomes, why is liquor treated differently? What I am proposing in this bill is to make it clear that the current practice of temporary agency agreements and the automatically transferring license is prohibited, and that the long-standing statute on this subject must be followed. The third part of this bill was recommended by Commissioner Robert Batt at one of our hearings this past summer. The bill would prohibit the storage of alcohol on any nonlicensed location. A loophole was discovered when it was learned that the Infinite stores were storing alcohol, clearly visible to the public, in stores that had lost their temporary licenses. I appreciate the willingness of Commissioner Batt to put forward this recommendation at the hearing last year. And finally, the bill requires

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that any application for a liquor license must show proof that all federal, state, local, and workmen's compensation taxes are current when applying for a license. Frankly, I was shocked to learn that there currently is no such requirement. I saw one application come before the Liquor Control Commission, asking to be granted the privilege of multiple liquor license, who had not paid one dime of over \$24,000 in property tax that he owed on his properties. One of the qualifications for me for getting a license should be being a responsible member of the community. I believe that the state of Nebraska has an obligation to those who do pay their taxes on time by refusing any license to anyone who does not pay their taxes. It is beyond me how anyone can defend the right of any application not to pay taxes that they owe. What this issue boils down to is crime and density. We are all concerned about the issue of gun violence. Neighborhood residents want a fair opportunity to fight elements coming into their neighborhoods that are known to promote crime. The lack of adequate management of a liquor license in an area that already has a density of liquor licenses promotes additional problems. We've handed out a map of my legislative district. When you look at that map, each dot on the map represents a current alcohol outlet in the district. Keep in mind that my district at its widest point is only three miles across. Leavenworth Street runs three miles through the middle of my district. You can literally drive down that street and never be out of sight of an alcohol outlet. In fact, there are 24 outlets in that very short distance. If we're going to get serious about fighting crime, we have to get serious about addressing the sources of crime. And who better knows what is best for fighting crime in a neighborhood than the people that live there? In researching this bill, I came upon something very recently that I was very surprised to find out, and I've offered amendment regarding that. This amendment being offered for the committee's consideration would address a problem that was brought to my attention concerning the state's current registration fee which is set by statute at \$45. My amendment would allow the Liquor Control Commission to set this fee each year at an amount that covers the costs incurred by the commission to process an application. This fee would have to be at least \$100. The current \$45 fee does not come close to covering the \$350 cost estimated by the Liquor Control Commission to process each application. So, in other words, what we're doing as state taxpayers is we're subsidizing the person who requests a liquor license. As this Legislature faces many difficult budgetary decisions, it makes sense to me to have the license application process pay for itself. I appreciate your patience. I know this was a long introduction. I want to thank the many neighborhood representatives who have taken their own time and money to come down here today to offer you their testimony on this important issue. They are here today because this matters to all of us, and I thank you all for being so patient. [LB605]

SENATOR KARPISEK: Thank you, Senator Howard. Any questions for Senator Howard? Senator Price. [LB605]

SENATOR PRICE: Senator Karpisek, thank you. Senator Howard, I have many questions, but I'll start with one, and we'll let everybody else have an opportunity. First

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of all, if we go to the green copy, and we go to page 6, I believe it is, line 1. [LB605]

SENATOR HOWARD: Let me see if we've got a green copy here with all this information. [LB605]

SENATOR PRICE: If not, I'll read it. It's very short and easy. [LB605]

SENATOR HOWARD: I think I do have. Tell me again where you're at. [LB605]

SENATOR PRICE: Page 6, line 1. I'm not sure...I didn't look to the section offhand, but it should be probably Section 1 here. [LB605]

SENATOR HOWARD: Page 6, line 1,... [LB605]

SENATOR PRICE: Section 2...3, actually...great. [LB605]

SENATOR HOWARD: The opposition or support of residents. [LB605]

SENATOR PRICE: Right. It says here, the opposition or support of residents or businesses. And then if we proceed on down to line 4, it says "The Commission may deny the application based solely on the opposition." How do you balance out where you ask for support and opposition in one, and you only give weight to opposition in the next sentence, is one question, part one of that. The second question is, how many will give opposition, one, two? If you have 15 who say yes and 15 who say no, or 15 who say yes and 14 who say no...I mean, this language here seems to be in opposition to itself within the same paragraph. [LB605]

SENATOR HOWARD: Well, the key to this really is the word "may" and this leaves the discretion to the commission. The commission has the opportunity to deny solely on the basis, or support, for that matter, solely on the basis of the testimony that comes in from the neighborhood associations. Now possibly it would be helpful for all of us if I could explain the reason for this amendment...or this piece in here in the bill... [LB605]

SENATOR PRICE: Well, if you don't mind, I think we heard earlier a little bit about it. But if "may" is there, how much is it different than the "may" they have right now? [LB605]

SENATOR HOWARD: Well, unfortunately, the "may" they have right now has not really given them the opportunity to have meaningful input no matter how many times they have come down here before the commission. [LB605]

SENATOR PRICE: So am I to understand then that the commission doesn't listen to the residents or...is that what you're trying to say? Because if "may" is in there now, and this makes it another "may", I'm wondering how may it change what may be happening?

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[LB605]

SENATOR HOWARD: Yeah, I understand what you're saying. What this does is give more leverage to the neighborhood associations. And I know that you're saying that "may" really is a fluctuating term. Correct. But we are not mandating what the Liquor Commission would do in deciding this. We're giving them the opportunity to hear the neighborhood associations and the residents that live, in the case of the residents, 100 feet from the operation, or the neighborhood associations, 500 feet from that. [LB605]

SENATOR PRICE: Again, though, it talks to the point of, isn't that how it is right now: they may listen to them? We just heard Mr. Rupe testify, and others, that right now as it stands today, in the law today, they have to take up...if three people come up in opposition, there's going to be a hearing. So those same three people who exist in today's statute would exist in tomorrow's statute, and there would be really no significant change on that "may" as it stands in this. [LB605]

SENATOR HOWARD: Well, I'll say this, Senator. I disagree with your interpretation of this, but I think it would be helpful if you would wait and listen to the neighbors and the neighborhood associations that are here behind me to express how this has worked for them when they've come in to testify. I think that would be helpful. [LB605]

SENATOR KARPISEK: Thank you, Senator Price. Any further questions? Seeing none, thank you, Senator Howard. [LB605]

SENATOR HOWARD: Thank you. There are many people here to testify, and I think they're going to give you some more answers, but I will remain to do closing. [LB605]

SENATOR KARPISEK: I will quickly read into the record letters of support from the Joslyn Castle neighborhood; the Highlander Neighborhood Association; Jim Vokal, Omaha City Council; Chip Maxwell; and the Board of Directors of the Park East Neighborhood Association. (See also Exhibits E, F, G, H-1, H-2) [LB605]

SENATOR PRICE: I think we have another letter, Mr. Chairman. I think we have a stack of letters (laughter). [LB605]

SENATOR KARPISEK: We can read them in as we go. We can have our first proponent. How many proponents do we have today? One, two, three, four, five...quite a few, a lot. Thank you. Welcome. [LB605]

DR. REBECCA MURRAY: (Exhibit I) My name is Dr. Rebecca Murray, M-u-r-r-a-y. Members of the General Affairs Committee, my name is Rebecca Murray. I am currently an assistant professor of sociology at Creighton University in charge of the criminal justice policy track. I've studied the effects of alcohol serving and alcohol selling

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establishments on the surrounding neighborhoods for approximately a decade now. I did my master's thesis and dissertation, doctoral work on this issue as well, so I've studied it quite closely. One of the things that I've handed around is a copy of just an executive summary of some of the research that I've done over the years. I've also worked very closely with several of these neighborhood associations, and my research is cited in the Orchard Hill case that Senator Howard referred to, which I believe you have a copy of as well. One of the things that I have found in my research is really, in essence, what has been identified by the Orchard Hill Association, what Senator Howard referred to, which is that the effects of liquor-selling establishments are quite profound on neighborhoods, the surrounding neighborhoods. As you might guess, and what Senator Howard also referred to, is that some neighborhoods have profoundly larger effects than others, and this is the issue that we come to today, which is that particular neighborhoods are quite different. If it were all the same, we wouldn't need the testimony of neighborhoods in those surrounding areas. But, in fact, it is quite different. My understanding and my feeling, very much so then, is that the people who live in those particular neighborhoods have a unique and distinct voice to be able to say whether or not liquor licenses be granted in their particular neighborhoods. One of the things, particularly paragraph K under Section 3 of this bill, LB605, encourages, in my understanding, the partnership not only of neighborhood associations, business owners, and residences, but encourages their partnership with research entities such as the ones that I represent, Creighton University, and the University of Nebraska at Omaha, and so on. It really encourages participate outside of the narrow confines of the liquor establishments, encourages dialogue between community boards and the Liquor Commission, and encourages the Liquor Commission to take quite seriously the effects of what we would call research-based assessment and some of these issues. As Senator Howard referred to before, the state of Nebraska uses liquor licenses as a privilege, not a right, and that those decisions must be taken quite heavily. Now I know that there was a bit of a discussion before about the "may" term, particularly in terms of whether the Liquor Commission may take into effect not only research such as my own research, but also the voices of some of the neighborhoods around there. One of the things that I would just like to say from participation in some of these testimonies in front of the liquor commissions is that even though the Liquor Commission technically may have in the Orchard Hill case, in fact, identified that they may take into account some of this information, is that this particular bill opens up another avenue for the Liquor Commission to be able to take into account solely the concerns of neighborhoods. That's one thing that I believe distinguishes this particular bill from what we've seen before. The reason that I think that this is extremely important is that, as Senator Howard said before, those people who live in those neighborhoods have the largest stake in what happens in those neighborhoods. And I believe that they should have an outlet to be able to say, you know, this can be the sole reason for denial of a liquor license which we have not seen before. I won't go into the very specifics of my research. I'd be happy to answer any questions regarding that research, but I wanted to keep it short and sweet. But one of the things that I do think is extraordinarily positive about this

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is that it really does encourage the culmination of research entities, and to be able to make...allow the Liquor Commission to make decisions that are based on research-based practices more so than they have in the past. I would thank you and take any questions that you might have. [LB605]

SENATOR KARPISEK: Thank you, Dr. Murray. Do we have questions? Senator Price. [LB605]

SENATOR PRICE: Senator Karpisek, thank you. Ma'am? [LB605]

DR. REBECCA MURRAY: Yes. [LB605]

SENATOR PRICE: Can you, again, refer me to where it says specifically that research organizations would be taken into consideration under a license application? [LB605]

DR. REBECCA MURRAY: The bill doesn't say specifically research organizations, no. [LB605]

SENATOR PRICE: Oh, it doesn't say specifically. [LB605]

DR. REBECCA MURRAY: Where I do see that, though, is in my own relationship with a lot of the neighborhood associations. I know that specifically the Orchard Hill Neighborhood Associations and the other neighborhood associations have reached out to a lot of research entities such as Creighton University, University of Nebraska... [LB605]

SENATOR PRICE: So it would be secondary in nature to... [LB605]

DR. REBECCA MURRAY: That's correct. [LB605]

SENATOR PRICE: ...supportive to the position of the neighborhood association, not directly the research. [LB605]

DR. REBECCA MURRAY: That's correct. [LB605]

SENATOR PRICE: Okay, great. And do you see anywhere in here where...or do you know of anywhere in current statute where the local voice is not heard of by statute? [LB605]

DR. REBECCA MURRAY: Do you mean that where a local voice is excluded by statute? [LB605]

SENATOR PRICE: Yeah. [LB605]

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DR. REBECCA MURRAY: No, I don't know where it's excluded. [LB605]

SENATOR PRICE: About the fourth to last statement, you said real quickly, that where they are not being heard now. And I just wanted to know, were you referring to that as a feeling that they're not being heard or because you saw that called out in statute? [LB605]

DR. REBECCA MURRAY: This is primarily an experience of the neighborhood association not being heard. Is it mandated that they're not heard? Absolutely not. [LB605]

SENATOR PRICE: Great, thank you. [LB605]

SENATOR KARPSEK: Thank you, Senator Price. Any further questions? Doctor, I would just ask, do you see this as a local control issue? [LB605]

DR. REBECCA MURRAY: Yes. [LB605]

SENATOR KARPSEK: Thank you. [LB605]

DR. REBECCA MURRAY: Thanks. [LB605]

SENATOR KARPSEK: Next proponent, please. Welcome. [LB605]

JOHN CRANK: Well, thank you very much. I'm delighted to be here. My name is John Crank, J-o-h-n C-r-a-n-k. I've not done this and am totally nervous sitting here. Anyway,... [LB605]

SENATOR KARPSEK: You're doing great so far. [LB605]

JOHN CRANK: So far. Well, let's hope it keeps on that way. [LB605]

SENATOR KARPSEK: It will. [LB605]

JOHN CRANK: I am here as a proponent of LB605. I represent both myself as a citizen member of the Bemis Park Neighborhood Association, and as a criminologist. I view my role here primarily as an informed citizen in that regard. I've wrestled with the issue, because I think it's very complex. It doesn't lend itself to easy solutions, issues with regard to the Infinity stores and the like. I have one of those Infinity stores that is two blocks from me today. It is boarded up; it's shut down; they closed it. It's a bit of a blight on the neighborhood. It's painful to see a business disappear. I also recall when it was open that there were substantial problems with it, and the problems cut both ways. Is

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it...is there greater harm from it being closed today, or is there greater harm...or would it have been keeping it open yet having the liquor sales? And I have a way of looking at that, but I'll go through the way in which I come to that conclusion. I can recall going in there once, the last time I walked in there--and I went in there a number of times when I was there. And during that period, I walked into the store. There were five young men in the store. There was one young man up talking to the clerk in front; there were four young men walking around pilfering things, clearly...clearly pilfering things. I walked in, they stayed for another three or four minutes. They all walk out the door, nobody buys anything. The person standing in front, obviously the front person, to me--that's what my training tells me anyway--chats for a couple of more minutes, then walks out, doesn't buy anything. And I pick up a couple of things, and then leave. I took a few things from that incident. First of all, one of them was what I had heard from the associations, that the issue...from the neighborhood association I was in and from the work that they had done with the police, and that is that management was not going to call the police, because the management wanted a liquor license. So anything that happened in the store was not being reported to the police, and this was common knowledge in the neighborhood. So people realized it was a place easy to hit, easy to take advantage of. My first concern with regard to the liquor license is this--and this is kind of the reason I got on board with the liquor license issue--if this place, given this kind of management practice as it is, gets a liquor license, how do I know that all of these problems aren't going to become even worse afterwards? There is no evidence based upon experience at this point, at least from what I can see, that the problem is not going to be amplified with the presence of alcohol easily available on the premises. It is the...right now that store, as it currently acts, is a magnet for people who are coming in stealing from it. Is that being pushed out across the neighborhood, and increasing victimization of the area? And will that, in turn, increase after they get a liquor license? Research in this area that has already been talked about--Rebecca talked a little bit about this--shows pretty consistently that that is what happens once liquor licenses become too prevalent in an area. A variety of crimes go up. Violent crime goes up. Family violence goes up. Children violence goes up. It's a very consistent finding across the literature to the point where there aren't any findings contrary to it. Now my question, and as I thought through it, is, is this what is going to happen here if we permit a liquor license...or if we encourage a liquor license? I shouldn't say we permit, but if we encourage it. Or should we take a stand on it? And that brings me really back to the bill at the end of the day. There are different ways to handle this, but the question in my mind is, should I as a member of the association have some voice in what is going on here through the association? So that is why I present myself as a citizen and a member of the association rather than simply as a criminologist per se. I think that I, like other people, are capable of making an informed decision on this, and I think that we can put together information available today clearly in police records that are widely available through OPD and the like, a sense of what is best for the neighborhood. We can contribute to that conversation in a meaningful way. I don't know that that conversation is always going to come out contrary to an alcohol license, because I am troubled by having

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empty property. Empty property is a significant issue today. But we're there; we see what's going on, and we can pull some of these different strands together, and begin to make a judgment on this. And it is for those reasons that I support this bill. Thank you. [LB605]

SENATOR KARPISEK: Thank you, Mr. Crank. Do we have any questions? Seeing none, thank you. Very good. [LB605]

JOHN CRANK: Certainly. [LB605]

SENATOR KARPISEK: Welcome back, again. [LB605]

DIANE RIIBE: I was going to say, this is my last time. I apologize for having driven halfway across the country this weekend, so I'm going to read my comments. I don't want to miss the points that I have, so... [LB605]

SENATOR KARPISEK: That's fine. That... [LB605]

DIANE RIIBE: (Exhibit J) Again, I'm Diane Riibe with Project Extra Mile. I serve as the director. R-i-i-b-e. We'd like to thank particularly Senator Howard and her staff for bringing the bill forward. We support it. We not only are appreciative that they recognize the problematic areas within the Liquor Control Act, but also for working effectively to address them. Her proposal provides, too, the opportunity for critical leadership in the area that concretely impacts Nebraska citizens. It is a proposal that is worthy of your study, of your attention, and of your support. The proposal has four distinct and significant components. The first section requires that a liquor license applicant be current on all taxes and other basic business requirements. Two, there's a provision that allows for consideration, as you've heard, of citizen opposition or support in the liquor licensing process. Three, there's a piece that eliminates what are referred to as temporary agency agreements. And, four, there's a provision to require a business to hold a current liquor license to be able to store alcohol on the property. We support the bill in its entirety, but I will focus this afternoon, my comments today, on two of the four sections: the need for consideration of the citizen involvement and the broader perspective, and then Nebraska's use of the temporary agency agreements. Project Extra Mile has been privileged over the years in our nearly 14-year history to work with citizens across the state, not just in the Omaha area, who wanted to address alcohol control policies and practices within their communities and within the state itself. In recent years, we've had the opportunity to work with the neighborhood associations across Omaha to do the same. We've never, I can tell you in all of our history, had the experience of having a citizen or citizen group approach us with a frivolous or unreasonable concern. We have rather been approached over the years by individuals who felt a sense, and I think you will hear that today, a sense of desperation at their lack of ability to be heard in the process that favors business over people, profits over health

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and safety. Unfortunately, in most of these instances, citizens have gotten involved in the process at a point in which it's been more difficult to provide an effective intervention that would keep their neighborhood or their town safe. Only in the last couple of years have we seen the kind of early involvement, particularly with the neighborhood associations in Omaha, by citizens that's necessary to address their concerns effectively. And to this end, we should all be supportive. I want to be clear again. We're not talking about anything other--I think it's appropriate questions--than valid concerns by citizens and those involved. We're not talking about a prohibitionist mentality. We're talking very simply about mothers and fathers and grandparents who want the opportunity to protect their children and their homes, who want to leave their neighborhoods and their communities to the next generation with fewer problems rather than more. LB605 does not require the commission to deny an applicant, based on the concerns by the residents. It merely allows their voice and concerns to be heard and rightfully, appropriately considered during that process. This is a standard that we have, unfortunately not reached in our state today. I believe that you'll find it hard-pressed as you talk with the neighbors here today and others to find a citizen who's been party to that process, to say that they felt like, quite frankly, their voice has even mattered. And, again, their motivation is basic to any neighbor, any parent, any homeowner. They want their neighborhoods, their homes, and their families protected from further harm and disintegration. They want the state of Nebraska to work with them, not against them. With regard to the temporary agency agreements, we have long supported the elimination of this practice. Members of the Liquor Control Commission and its staff have also voiced ongoing concerns over the years about the use of these agreements. They are essentially an agreement with no one. The premise is that, as one physical business is sold, the new owner can operate, temporarily is the intention, for a period of time until a license is granted to the new applicant-owner. It is a practice that is easily abused with it not being terribly uncommon for that new business owner to operate under someone else's license for a good period of time, hardly temporary; sometimes close to a year. Further, during whatever period of time the new owner is operating under that temporary agency agreement, any violations that occur are legally to be assessed to the actual license holder--the original, but not current, owner of the physical business. Again, the original, but not current owner of that physical business. He is merely letting someone else operate under his liquor license, so if a sale to a minor occurs, for instance, the original business owner has little care, if any, about the violation, because he's no longer in business. There's nothing to hold that actual liquor license holder accountable. It is an agreement with no one. And the new owner of the physical business, one would ask? He doesn't actually hold the liquor license, so a penalty cannot be assessed against him even though the violation happened under his watch with his business practices and his policies. I have to share with you one of the worst cases of this practice being allowed. We have the case of Cheema's a business in Morrill, near Scottsbluff, Nebraska. The owner of that location held liquor licenses at three additional locations in western Nebraska. The business sold alcohol to 16-year-old Kraig Kelley in June of 2007. Later that evening, after purchasing alcohol at Cheema's,

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the young man, 16, and his 14-year-old girlfriend, Kati Cullom, crashed their vehicle with Kraig Kelley at the wheel. Kati died of her injuries later that evening. Kraig was charged and convicted of felony motor vehicle homicide while the clerk was charged and convicted of selling alcohol to a minor. And what about the business, Cheema's, that had the privilege of doing business in the state of Nebraska under the provisions of the Liquor Control Act? Surely, the people of the state have a reasonable expectation that the owner operate his business legally. The community, including Kraig's and Kati's families, also held reasonable expectations that the business owner abide by Nebraska law, and if the business violated the law, particularly if a young life was lost as part of that larger event, that the business would be held accountable. What followed was not about holding the owner of Cheema's accountable. As a reminder, the clerk and the young driver were both held accountable to the highest level of the law. Although I suspect that 16-year-old Kraig might have wished he was operating under someone else's driver's license that fateful night. Cheema's was not only allowed to continue doing business, but the owner, having three other businesses in western Nebraska at stake, and at a time, remember, that ongoing criminal cases against both the young driver and the clerk were there, that business owner began the process of quickly selling the Morrill location, Cheema's, with the state's full knowledge that this location was under scrutiny locally because of the sale of alcohol to the two minors. The criminal felony proceedings against young Kraig Kelly and the death of 14-year-old Kati in front of the community, the new owner was easily, easily granted a temporary agency agreement by the Liquor Control Commission. I want you to know that the mother of Kati Cullom sent a letter to the commission, asking for its help prior to the granting of that temporary agency agreement. With the state's granting of that agreement, they no longer held an interest in holding the owner of Cheema's accountable for its role in the events of the evening that included the death of young Kati. Indeed, it was an agreement with no one. It brought all of the privileges and absolutely none of the accountability. Plenty of additional arguments and points could be made here, Senators, but I will spare you. I'll simply tell you what seems like the obvious. It was simply wrong. A temporary agency agreement should never have been granted in this case and many others, but it should not be allowed because the process does not allow for the most basic accountability in the event that a violation of liquor law occurs. Sometimes the case is simple, and sometimes it includes the loss of life. It is a practice that should be halted. Certainly Kati's family believes that and understands that better today. Thank you, Senators, and thank you again, Senator Howard for your incredible leadership, and we would urge your support of LB605. [LB605]

SENATOR KARPISEK: Thank you, Ms. Riibe. Any questions? Seeing none, thank you. Next proponent. Welcome. Senator Rogert is going to take over for me for a sec. (See also Exhibits K, L, M, N, O, P, Q) [LB605]

JIM FARHO: (Exhibit R) Very good. Thank you. My name is Jim Farho, F-a-r-h-o, J-i-m. I am here representing two entities. The first one is the Midtown Neighborhood Alliance.

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You're getting a letter from our board of directors now. We are in full support of the legislative bill in front of you today to move out of committee onto the full floor as it is. We represent 14 neighborhoods within midtown Omaha, representing over 150,000 people within that area. We've...as you saw in Senator Howard's map, there are a lot of liquor establishments set up in our area, and our area is growing. Investment is continuing to happen in the area, over...close to a million dollars investment within the midtown area, continues to happen, and we want to make sure that we get the residents to come with it, and making sure that the area is safe and secure for our families. I am here to say that this is an important bill for us as neighborhoods, the neighborhood residents that are here. You're going to hear more neighborhood associations that are affiliated with the alliance and those that are not yet. And we hope to have them on board. But our service area includes a large area within the city, and we appreciate what has happened. We appreciate the Senator's leadership in bringing this bill to the floor and to this committee, so we appreciate that. And with that, I would also like to address another letter you got from the Midtown Business Association. This is a local business group, again, within midtown, that it gives you an example of an establishment within my neighborhood. It's about four blocks away from my house. This is an establishment that had a problem, and the liquor license was going to be pulled. They quickly sold the business to another patron of the bar, so we didn't oppose...well, the business alliance didn't oppose the moving of the liquor license. The neighborhoods did. The business group tried to do something different, and they tried to make an agreement with the bar and the business group, saying, if you do these 16 points, and at any time you violate any of them, we can pull the license. Neighborhoods weren't part of that, but we appreciate them trying to do something in allowing another business to come into the area. That...long and short of it is that license...they got their license even though there were issues with the background check, the Liquor Control Commission issued it based on having a local agreement with a business association, not the neighborhoods, but the business association, after it was not approved by...or it was approved by the city council. It ended up, a number of violations of that contract happened, pulled the license from the city council, moved to the Liquor Control Commission to remove the license, and the city council approved that on a, I think a 4 to 2 vote to remove the license. Liquor Control Commission decided that the contract was no good, that the neighborhoods and the business association, that they made this large agreement with the Liquor Control Commission to say, hey, if they follow these rules then they get to keep their license. They didn't follow the rules, and they still get to keep their license. So, you're hearing a lot of frustration. You will hear more frustration from us neighborhood people because now we even create a legal document that they agreed to; testified at the city council meetings that, hey, if I violate any one of these, you can pull my license. And then when they did repeatedly, a number of those agreements were violated; they didn't lose their license. They get to keep on operating even though they had tavern reports against them; things continued. And they still have that today, and now they feel they don't have to operate under any rules. So as neighborhoods, we're feeling that there isn't a whole lot of control there, and we'd like to

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see more of it, and we'd like to see this one. We think this one will allow neighborhoods and residents as well as the businesspeople within the areas, be heard. Okay? Second, we don't feel this is an undue hardship to any license holder today. This will not cause good businesspeople to have a problem. We don't think this is going to cause undue hardship. We think you're going to hear that from the other folks, but we really don't see that as a problem. Pay your taxes; make sure you're up to date on things. Let's not let licenses be transferred very quickly and easily, and especially behind closed doors with some quick manipulations on liquor licenses. So we do feel that we're in full support, the 14 neighborhood associations. The Midtown Business Association, they have not come out whether they're for or against this one, but they do send this as an example of their frustration even when they tried to do something and get involved. They're at the point of, they don't want to get involved anymore. With that, I'll open it for any questions you have. [LB605]

SENATOR ROBERT: Thank you, Mr. Farho. Are there any questions? Senator Price. [LB605]

SENATOR PRICE: Senator Rogert, thank you. Mr. Farho, quick question. Do we levy as far as Section 2 about making sure everything is paid up, and do we levy that same requirement on all businesses, on all people who are applying for a license? [LB605]

JIM FARHO: Senator, I'm not sure on other licenses whether that happens or not. I do know, as my background is working for Mutual of Omaha, we go through a lot of licensing. [LB605]

SENATOR PRICE: Right. [LB605]

JIM FARHO: We go through a lot of regulations. If all Mutual had to do was make sure they paid their city and state taxes and Workers' Comp taxes, you'd have a very happy corporation. [LB605]

SENATOR PRICE: Right. I just wanted to make sure that we have consistency there, you know, if you're going to be a doctor or you're going to be a veterinarian, or you're going to do anything...a beauty shop. Do we levy the same requirement to other licensees in their application process, to make sure that we don't get called out on special legislation on something like this? Therein lies the rub. Thank you. [LB605]

JIM FARHO: Very good question. [LB605]

SENATOR ROBERT: Thank you, Senator Price. Any other questions? Thank you, Mr. Farho. [LB605]

JIM FARHO: Thank you for your time. [LB605]

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SENATOR ROBERT: Next proponent. You scared him away. [LB605]

MARGIE MAGNUSON: (Exhibit S) My name is Margie Magnuson, M-a-r-g-i-e. Magnuson is spelled M-a-g-n-u-s-o-n. I am here as a spokesperson for the Alcohol Impact Coalition. I had prepared statements, but I'm going to kind of ad lib a little bit just from some of the questions I've heard Senator Price say. But I did want to let you know the Alcohol Impact Coalition is a new coalition that has been formed almost three years now, of about 12 neighborhood associations--north, south, midtown in Omaha. We were formed mostly out of frustration from the neighborhood leaders because, you're right, there is already verbiage in our laws that say that they may consider citizens' protest. I think maybe Senator Howard should have gone a step further and said, shall consider. But I think that there should be more emphasis placed on the people who actually live there. In the...I have protested several liquor licenses, probably in the last five or six years. At each time, whether at the local level or at the state level, while the verbiage is there, I don't believe that it's really considered. I don't think that there's much weight given to the citizens' protest. We've heard time and time again at the state level, or excuse me, at the city level that somehow the business interests and they may have one or two, their attorney and maybe the businessman there protesting...or excuse me, asking for a license. And then you may have 30 to 40 people in the same city council saying that they don't want it. And in the end, it doesn't matter because the business interests trumps what the citizens want. When you go on to the state level, you still have that the liquor commission may deny it based on that, though I don't think that is given much weight or consideration. I heard Hobie talk about the Infinite Oil. And we keep bringing this back, because really, having gone through this whole process for the last year, it's been a real education. And it's...I feel like the more I've heard or been involved, the more I have to learn, and the more that...the feelings I'm getting from the residents of this...in my neighborhoods, in the city, and perhaps throughout the state is that when we come and we protest and we want to speak up, you have...we're almost sort of a minor consideration. You have to actually prove that this guy has done something wrong or this guy is not fit, willing, or able to abide by the rules and they...you're right. Maybe there should be some verbiage that says, you know, where's the line? How many people have to protest before it matters? I've had Mr. Kelly, who is an attorney for most of these, who basically say, oh, there's just a few of you that, you know, you're prohibitionists, you know, you don't want alcohol. That's not true. It's not. We care, really care deeply about our neighborhoods, and we do it not because we're getting paid or because of anything. We do it because we chose to live where we live, and maybe we're in areas that already have some socioeconomic issues. We understand that when we buy our houses where we buy them. We do it because maybe we believe in this neighborhood. We believe there are good people there. We believe that we should have the same rights, privileges, expectations. I live just half a block from a liquor establishment, an off-sale one. I constantly have to deal with issues. People say, why don't you move? Why don't you move out west? Don't live in north Omaha. Don't live

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down in the midtown area if you don't like it. I think there's a lot of good things. I don't have to...I shouldn't have to settle for something less because of where I live. And I think there should be stronger language that says that we need to listen to our residents. We need to listen to the people who are there. Because you've heard Dr. Murray, you've heard Professor Crank--there are really some strong...there is data out there. There's national data. We bring it to the liquor commission, and it's sort of like, oh, or we bring it to the city, say, oh, bring me the local research. You know, there's tons of literature out there, says it does affect your neighborhoods, and we're living here, and we know what it does. And yet, somehow, that doesn't seem to matter. Now, if you can prove something else, then maybe we'll consider that. So I really think that there needs to be...I really urge you to pass this bill. I think there really needs to be some more emphasis on what residents want in their neighborhood and that we feel like we get up and speak...and I see people nodding and smiling, not just you guys. But yet in the end, it seems like somehow the business interests in the state trumps anything that we have to say, and somehow that has more weight. I'm also...the second thing that I handed, and Mr. Farho referred to it too, is these agreements. There's a new tactic that the attorneys have been doing. And I think it's kind of them, for a way to say, hey, this gives the neighborhoods more voice, more say about these liquor licenses is to form these neighborhood agreements. I gave you a sample of a neighborhood agreement that was given. It's a joke, it's an absolute joke. I mean, there are simple business practices. I mean, one of the agreements is that they're going to go pick up litter along...in their business, you know, on the property. Any good business should be picking up litter; they should be addressing that. They're going to...if there's some crime or something happening at the store, you know, they've got security, or they're going to call the police or whatever. Those are all givens. That should be happening. And so I throw out these agreements just because that's a new tactic that is sort of like, well, this is a way for you to have more voice and what's going on in these liquor licenses. They're a joke. They were too vague. When the business association formed a little tighter, more...they had an attorney actually draw this up, it went to the liquor commission, and they dismissed it. They said, no, we can't...we won't hold them accountable to that agreement. So that kind of...that's what sends us the message that you guys aren't listening to us, that the city isn't listening, and the state isn't listening, or they're not giving enough weight to our voices. And so I know there is this thing, it's like it's already there. It does say "may." But there has to be more weight given to it, because we aren't being heard, and it needs to...that needs to change. One other thing I also want to talk about is these temporary licenses. Again, I'll bring back the Infinite Oil. What happened is the Infinite Oil was operating under a temporary license, and they had a sale to a minor. When we tried to bring this up, when we got to the liquor commission, it's like, oh, well, their attorney said, no, that sale to a minor was under the old Kum&Go, not this new owner, even though the new owner hired the employees, trained the employees, and so they're trying to brush off the fact that they actually had a violation under their watch when they owned the store. And yet, somehow, because it's under a temporary license or a temporary agreement, it won't show up on them. It's not my fault; it's under Kum&Go's license, so it

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will fall under Kum&Go, and so...and that's a joke. I mean, Kum&Go had nothing to do with that, that violation, and yet the violation will never show up under that, because they had this temporary agreement with the old...you know, under their old license. And so if and when they ever get a license, that violation will never show up there. And that isn't right either. And as Mr. Farho also pointed out, it's like, why is it that we make an exception to the liquor industry that they can have a license and operate...again, for the Infinite Oil they operated for four months without actually having been approved to have a license. They operated under a temporary license for four months. That's just not right. It's a privilege in this state to have a license, and they should have...the temporary license agreement should come to an end. So I know I'm speaking off my notes, but...and you have them there to look at later, but I just wanted to address the frustrations that we have in real-life experience, and doing what we've done. And it's just...there just has to be more weight and more consideration given. And just...I hope you will really seriously consider passing Senator Howard's bill, or advancing, I should say. [LB605]

SENATOR ROBERT: Thank you, Ms. Magnuson. Are there any questions from the committee? Seeing none, thank you. [LB605]

MARGIE MAGNUSON: Oh, I'm sorry, there's one thing. I did want to enter this. I only had one copy. This is something that our...I'll call Impact Coalition, because educational...part of the process of people having a voice is to know how to actually go about it. And, again, Mister...Hobie had talked about, you know, you have ten days for someone to lodge a protest. If you don't know that there is a protest or that there's nothing at your city level, how do you know to go...that you have ten days? At what point does that start? And there is a huge gap in educating people, citizens to be able to protest. We're hoping to close that gap, and I just wanted to leave that for you, too. Thank you. [LB605]

SENATOR ROBERT: Sure. Hand that to the clerk. Thank you. Next proponent. [LB605]

SENATOR KARPISEK: Welcome. [LB605]

JAN QUINLEY: Thank you. Good afternoon, or is it evening yet? [LB605]

SENATOR KARPISEK: Well, it's late afternoon. [LB605]

JAN QUINLEY: (Exhibit T) We're getting close, huh? My name is Jan Quinley, J-a-n Q-u-i-n-l-e-y, and I'm a resident of an eastern Omaha neighborhood that's represented by the Ford Birthsite Neighborhood Association. I am submitting a letter that the association board of directors wrote, and it addresses each of the four pieces of the bill that the changes are a part of. But I don't want to...I'm not going to read that. You guys will. I'm going to share with you a little bit about my own personal experiences, and my

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own level of frustration, trying to deal with this thing they call the liquor license. Every change that you have seen in this bill is a direct result of people like me, people like those who are sitting behind me, who have come to Senator Howard, and said, this is the brick wall we came up against, this is the thing that's frustrated us the most. And when Senator Howard made her opening statement, she reminded you that the law is very specific, that a liquor license is a privilege; it's not a right. And to an outside observer like me, it seems that over time that focus has evolved to the point where it...where the applicants and their representatives seem to see it as a right. I cannot tell you how many times I have had someone step up to me and say, we have done it this way for as long as I can remember. It's not fair. You can't not give them a liquor license when they bought that business. Why, we've always done it that way. You know, why should that be the way we violate the law? We used to always drive a horse and wagon when we wanted to go between Lincoln and Grand Island. Should we let the horse and wagon go on the freeway now? No. So let's take this chance with this bill and clarify that there is a proper way that we will grant liquor licenses, that we will use our state resources to protect the citizens and the businessperson. I've been involved since about 2000, that's my first liquor license, and I have been a proponent of licenses as well as an opponent. It's wonderful when you get a chance to sit down and dialogue with a businessperson coming into your neighborhood and say, we really, really want your restaurant, and we're thrilled to have it, and we understand why you want to be able to serve the beer and you want to be able to serve the margaritas, and what can we do to make that happen and still protect the neighborhood? And so we've come to an agreement that they'll apply for an on-sale license. And, you know what? We were happy to stand up and support them, and say, yes, we want this business, and yes, we agree with this, because the research has shown us that when the majority of the income out of a business is derived from food service, you don't have a problem with the liquor. But when the majority of a business's profits is derived from liquor sales, then you have the problems with the crime. So when you have a convenience store that's really a liquor store masquerading as a grocery store, you have the problems. You have the drunks, you have the litter, you have the crime, you have the fact that they won't report crime, because if there are enough complaints, then people like me can use that against them when they go to the commission. It's very discouraging when you go to the commission. Everybody, that...the majority of those who are testifying here are doing so on their own time. We've taken time off work. We've had to make arrangements for care for family members. We have used up vacation days. And this is not our first trip to Lincoln this year. In fact, very frequently, since the lawyers have decided that we are a little bit of a group to be reckoned with, and they've decided to pull out what they call the Rules of Evidence, we have two hearings for every one hearing plus a second trip back to be able to get a determination. So in one particular case, we had to go prepare for the hearing. We had to come to Lincoln the week before and present our testimony under Rules of Evidence, which means we had to have copies. They had to be certified copies. The person who had actually prepared the copies had to be able to be present at the hearing to testify, that if we wanted to do crime reports, we actually had to get a

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police officer to come give the crime reports, or they determined they wouldn't take them. Just all this kind of stuff. We were so lucky in this last round that we had a neighborhood resident who happened to be a lawyer, and he gave us hundreds of hours of free time and represented us through this whole process. We would not have even gotten through day one without that. The system is not set up so that a person can just kind of try to read those statutes, as confusing as they are, and go to the commission and say, this is why we don't think this should happen, or this is why we do think this should happen. Everything that has to be presented to the commission, we pay for. We've paid for expert testimony. We've paid for color copies. We've paid to have a court reporter come in and do a videography of a testimony of a person who couldn't be there. All of those things come out of our pocket. We take nights and evenings and research, and it doesn't seem like it matters. We're told: but that building had a liquor license 25 years ago when 7-Eleven owned it, so why shouldn't they get one now, and get rubber stamped by the city council? Well, just because that applicant isn't a legal resident of Nebraska, and the state says your registered agent must reside in Nebraska, and this person doesn't. Well, they can go fix that tomorrow at the Secretary of State's Office. Those kinds of things are allowed to happen. This isn't being made up. This is real. And it's so frustrating because the...it seems as though if it's going to give the business an advantage, then they can take it. We're given a deadline: you have to have all your exhibits in by this date, and you must provide this many copies of it. So we go, and we come to Lincoln, and we do that. And we get there, and the attorney for the applicant says, oh, well, I don't quite have mine together. I'll get them down here in the next few days, and they said, okay. And then we get to the hearing a week later, and do you have copies of your items to give to the opponents? Well, no, I didn't get those copies made, but I'll introduce them during the hearing. This happened for real. It seems as though the citizen is treated as though they're the nuisance. We are that fly buzzing around their head, that they really would just wish that would just go away. And what we hope happens for this...with this bill is that they will take us more seriously. From my perspective, it seems that the right of the applicants are held in a higher place than the rights of the community that they do business in. There's an old adage that is often quoted in business and politics, and that's "follow the money." If you will do that as part of this hearing today, you will realize that all of us that are here to support this bill, it's costing us money to be here. And I bet you, those who oppose the bill will be paid to be here today. [LB605]

SENATOR KARPISEK: Thank you. Any questions? Seeing none, thank you. Next proponent. Welcome. [LB605]

MARTIN JANOUSEK: Thank you. Martin Janousek, M-a-r-t-i-n J-a-n-o-u-s-e-k. And Senator Karpisek and General Affairs Committee, I'd like to start off with just addressing Senator Price's question about maybe have people been listened to? And as I was sitting here listening to the fellow people coming up here to speak, it reminds me of the first time I went down to the Nebraska Liquor Control Commission hearing, and I sat

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there in the back of the room for about three hours, and I witnessed...there's three commission members on the board. And one of them sat there and read the local paper for about three hours. Didn't once look up. I think she did the crossword puzzle. She was looking on her BlackBerry. She was doing everything imaginable. So for neighborhood associations who spend a lot of time to come down there on their own time--and myself, today, I'm on my own time--to have that happen is very disheartening on a system and so on. And so that, to me, is an example of no one's listening, and when you see that happen, that is a good example of that. But anyway, today I brought something I want to read from my company. I'm here today to ask that you support LB605. Like I said, my name is Martin Janousek, and I'm a partner in a company that has been investing and rehabilitating properties in older areas of Omaha for the past ten years. For the past five years, our company has been investing and working in the Gifford Park business district here in Omaha. Gifford Park is a small urban neighborhood with many issues. However, I'm sure most of these issues can also be found in towns around Nebraska as well. To give you some background, we started the Gifford Park LLC by purchasing an abandoned apartment building. Using our own money and many long weekends, evenings, and vacations, we brought this building back to use. It hasn't been until this past fall that our apartment building finally became fully occupied. It has been a struggle to get it to full occupancy due to the real issues in the neighborhood. As we have spent time in the area, we have been witness to many acts of crime and violence, and just plain disregard for public decency. We have spent numerous weekends and late nights acting as our own force, protecting our buildings and tenants from problems that plague our business district. We have no doubt the common denominator to the area's problems is alcohol. Alcohol in the form of bottled hard alcohol, single and multi-pack cans, multi-pack beer, and 32-ounce malt liquor bottles in the notorious brown bag in combination with poor point-of-sale judgment and the chronic disregard of the neighborhood has crippled the area. We have had a female tenant sexually assaulted in front of our building; a female tenant followed to her car in our back parking lot. We have had friends of tenants assaulted in a local convenience store parking lot. We regularly pick up bottles and cans. We have witnessed public urination on our property. We have had tenants call us about someone exposing themselves as they urinate next to their cars while they go to work in the morning. We have had storefront windows smashed; sidewalk planters destroyed. We have seen patrons of existing liquor establishments drive down the sidewalks as though they were streets, drive down the wrong side of the street into traffic and run red lights. We have had someone at 3 a.m. had to get their stomach pumped by paramedics on the steps to one of our properties, because the hospital just blocks away was too far. All of these are the result of alcohol--the oversaturation of alcohol outlets, the poor oversight when issuing licenses to inexperienced, inept, and irresponsible business owners. After sharing with you just some of our experiences, I have to ask a question. Is this what liquor licenses are supposed to do for the neighborhoods, and is this the state's idea of economic development? Public urination, public drinking, litter, panhandling for cash to purchase alcohol, and drunken fights seems like nothing to us anymore. But for people

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who visit our business district, it is something. Visitors, parents, students, and neighborhood residents remember these issues when it comes time to patronize a business, rent an apartment, or recommend the neighborhood to their friends. Our company has been and continues to work to improve the Gifford Park business district through our financial investments, hard work, and time, and volunteerism. There are many positive things that have started to happen in the business district and surrounding neighborhoods. I and my company support LB605. Please move this to the full Legislature. Thank you for your time. [LB605]

SENATOR KARPISEK: Thank you. Any questions? Seeing none, thank you for your testimony. [LB605]

MARTIN JANOUSEK: Thank you. [LB605]

SENATOR KARPISEK: Welcome. [LB605]

CHRIS FOSTER: I don't know if the information I...okay, that's...my name is Chris Foster with the Gifford Park Neighborhood Association. And some of the stuff you have is pictures, so, hopefully, it's a little easier to read at this time of the day. I've got one more, just a book of events and activities in our neighborhood that I didn't make ten copies of. I apologize. But my...the main point I want to make is I want to give you guys a picture of our neighborhood and... [LB605]

SENATOR KARPISEK: I'm sorry, can you spell your name for us? [LB605]

CHRIS FOSTER: Sure. Chris, C-h-r-i-s Foster, F-o-s-t-e-r. [LB605]

SENATOR KARPISEK: Thank you. [LB605]

CHRIS FOSTER: I've lived in...at 34th and California in the Gifford Park neighborhood for over 20 years. And I really want to just kind of paint a picture and give you a sense of the nature of our neighborhood, which is very similar to the other...my other comrades and friends in other neighborhoods, and kind of what a neighborhood association is all about. You know, we're organized; we meet; we talk about these things. We represent a large number of people and households. And I won't repeat what everybody else has done a real good job of doing. But the...you know, the biggest things I want you to understand that we do make a difference in our neighborhoods. I've got a brochure there, a newsletter, that gives you activities and events that we do, and, you know, the biggest thing, again, is that we're a group and we've come down here this morning. In fact, my wife asked me, when am I going to quit taking vacation for Liquor Control Commission licenses? When are we going to take a real vacation? And that's true for a lot of people here. I want to give you a few facts, too, to kind of bring it home on what Senator Howard said about Gifford Park, and other people. And I think Senator

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Gwen Howard is actually in the newsletter and probably in a lot of the pictures. She attends our events and activities as much as she can, and the other neighborhoods also, so this bill is coming from her heart also besides the neighborhoods. There's a map in there, and I don't know if you're looking at that map of 33rd and California. Within a block area, there's four off-sale outlets where you can buy liquor, and the point I want to make is it's in close proximity to Gifford Park. There's a church; there's a community bike shop that teaches kids how to fix their own bikes along with other life's lessons. There's a community garden down the street where we teach. We've got 55 youth plots that every Saturday during the growing season, we teach kids how to grow their own vegetables, and where food comes from, land conservation, things like that. And, again, to me it's ridiculous that this much...this density is allowed to happen in a neighborhood association like ours or any neighborhood. There's also...I didn't provide it, but a density from the 2000 census that around 33rd and California, there's a very high percentage of under-18-year-olds. And, again, that's just a perfect recipe for the wrong kind of thing to happen. The other document you've got is from the police chief Warren. There's...in about a ten-month period in 2007, the crime stats are the top ten calls for service, and that's this document. And again, those are...that's just way too much. And alcohol is a source of a lot of it. Again, I live at 34th and California. I've lived there for over 20 years, and I'm down at 33rd and California all the time, so I witness this. I've called 911. You can stand down there even today, and call 911, and several times, I can guarantee, it's related to alcohol in some way, shape, or form. I think the other thing, too, is if we...we don't have law enforcement that can handle all this, and that's pretty obvious. So this is an additional burden on the neighborhoods, and there's also lack of enforcement. There's really no way to enforce the liquor laws, and when these businesses that manage them poorly are able to continue. Even the Infinite Oil has had a broken window for before Christmas, and now they're closed. Grocery store has a broken window that the liquor commission had...in their infinite wisdom, had granted a license and, again, it's still poorly managed, so we don't see enforcement, and that's a huge problem. The other document, a couple of people had talked about it. This so-called business plan agreement is...it really is a joke. It's not enforceable, and the only reason why...and they are, these are things that the business owners should do anyway. So there...and the only reason why this agreement was put together was a couple of us met with a couple of the city councilmen, and a city councilman contacted the business owner, and said, you better do this, because the neighborhoods are, you know, not happy. So this is supposed to sort of be a pacifier to get their license. I think the...just a couple of final points. You know, there's a big outcry for all the crime especially in Omaha, and especially in the neighborhoods in the eastern part of the city. And if you...if this policy that Senator Howard has would be adopted, that's a great way. It's policy, it doesn't cost money. It's not like you have to get a million dollar grant to do something separate. This is good policy that will last a long time, and really help shape our neighborhoods. And I think, you know, the last thing is, we're the experts. I mean, we...you know, if we would want to support a business, if the situation changed years down the road, and there was, for whatever...environment would create where it

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might...it was a good business, we would support. That's offered in this bill. Likewise, with testimony on specifics that we see. [LB605]

SENATOR KARPISEK: Okay, thank you. Do we have any questions for Mr. Foster? Seeing none, thank you. Next proponent? [LB605]

JACK CHELOHA: Good afternoon, Senator Karpisek and members of the General Affairs Committee. My name is Jack Cheloha, and that's J-a-c-k, last name is spelled C-h-e-l-o-h-a. I'm a registered lobbyist for the city of Omaha. I wanted to testify in support of LB605 today. As you've heard from a number of the witnesses, the local governing body gives a recommendation regarding a liquor license, and, obviously, the city of Omaha is the largest metropolitan or municipality in our state, and so the most liquor licenses come from our jurisdiction. Our city council at its weekly meeting, you know, considers typically a minimum of eight to ten items relating to liquor licenses every time they have their meeting, and they do meet once a week with the exception of a few holidays. So it comes before us quite a bit. And as you know, we have public hearings on those recommendations. We take testimony similar to what you're hearing today, and a lot of times there's frustration as to the input even the local governing body can take from neighborhood associations, neighboring businesses, etcetera. So we see LB605 as an ability to empower local businesses and local neighborhood associations, etcetera, in terms of offering their input for consideration on a liquor license. What I handed out to you or asked the pages to hand out was, in anticipation of this type of bill being introduced, the city council approved on it unanimously, and the mayor signed the resolution, asking for support of legislation on two of the four points within this bill. They had to do specifically with the neighborhood groups and their input on liquor licensings and then finally, the storage of liquor at unlicensed associations. And so for those reasons, I'm here testifying and asking for your support of LB605, and I appreciate that Senator Howard put the bill in, and I'll try and answer any questions you might have. [LB605]

SENATOR KARPISEK: Thank you, Mr. Cheloha. Senator Price. [LB605]

SENATOR PRICE: Senator Karpisek, thank you. Mr. Cheloha, I'd like to ask, am I to understand that with this letter of support that the city council of Omaha has been expressing an opinion to deny a license, and yet it's been overridden on a regular basis? [LB605]

JACK CHELOHA: I won't say on a regular basis, but they have made recommendations to deny a license, and for various reasons, the Liquor Control Commission has ruled, you know, contrary to what the recommendation may have been. [LB605]

SENATOR PRICE: And would you offer that, at times, perhaps, the commission--and I'll ask Mr. Rupe later--but their hands are tied, because what's been asked? In other

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words, sometimes people ask for things that the law doesn't exist to take into consideration, you know, like we said. But we've heard numerous times where civic groups have come forward and they had to meet all the requirements for dates and times and thresholds. And I suppose the city does also when they're going to a hearing for this, and yet the other side doesn't, and yet they get granted licenses. So I'm just really concerned that even if a city the size of Omaha says no, and the civic groups say no, that these licenses still being granted, and that I can only hope that's because the right...there's no position the commission can take in consideration to deny the license. [LB605]

JACK CHELOHA: I think that's a fair question, Senator, and I think the commission, as they govern, and are instructed to rule on these things...I mean, I think they follow the letter of the law. I think they follow the advice of their legal counsel, and, ultimately, they make the best ruling possible under the circumstances. It's just...all we're asking for is just a little more input from the various groups that may actually neighbor the business asking for the liquor license, and just to give a little more weight, if you will, or the ability to even deny a license because of their concerns. [LB605]

SENATOR PRICE: Does that not exist in the current statute? As we began, does it not exist in the current statute that if you said no, that they can say, no? The commission can deny it? [LB605]

JACK CHELOHA: It's my opinion that, based on the input from the neighborhood groups, it's strictly one of the things you use to weigh, you know, the merits of the license. It can't be used strictly as a reason to deny that license. [LB605]

SENATOR PRICE: Thank you. [LB605]

SENATOR KARPSEK: Thank you, Senator Price. Any other questions? Thank you, Mr. Cheloha. [LB605]

JACK CHELOHA: Thank you. [LB605]

SENATOR KARPSEK: Next proponent. Welcome. [LB605]

ROBERT HUTTON: Thank you. My name is Robert Hutton, H-u-t-t-o-n, and I'm in the neighborhood association. I've lived in that area since 1961. I've seen the area itself go up and down as far as what we desire for a likely neighborhood. But likewise, the present conditions that we have doesn't really give meat or merit to what the people of the area really desire. We get into the areas of privileges and rights. Some of these people get the idea that having a liquor license is a privilege, and I do not agree with that whatsoever. It's a privilege for them to do that if they're allowed to do it through legal means. I have the right myself to stand up there and say, here, I have these

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opponents, I have all this opposition, I've got all these rules and regulations for you, I can show you violations, and yet we seem to be ignored. For some reason, our local council as well as the liquor commission, they seem to ignore what we present to us. The other parts that really disturb me is when they say, well, you don't have enough evidence; is this all the people you have to present evidence with? And at the same time, they limit us to maybe five, ten minutes per person, and if they say, well, this is the case and we have 15 people there, all of a sudden our time limit is used up, and they shut us off. I don't agree with that; it should not be done. As I understand the so-called Constitution, "We the people," and they don't seem to listen to us, we the people. That's my main complaint. This amendment that we're talking about here, I believe will put a little bit more emphasis on what the neighborhood or what the public themselves in that particular area will have some kind of a say-so. We need a little bit more who would pay attention to us that live there. People that have businesses there don't live there, they don't understand, we have to put up with that 24-7, and sometimes we get kind of tired of it. We've seen the ups and downs of what happens when we have a coalition of people take place and yet the council don't seem to listen to us. That really irritates me. And I'm in full support of Senator Howard's bill that she's proposing. Thank you. [LB605]

SENATOR KARPISEK: Thank you, Mr. Hutton. Any questions? Senator Cook. [LB605]

SENATOR COOK: Thank you, Mr. Hutton, for coming down this afternoon--evening now. You said that you've been involved since 1961. Thank you for sticking with your neighborhood. [LB605]

ROBERT HUTTON What? [LB605]

SENATOR COOK: You've been involved in your neighborhood and active since 1961... [LB605]

ROBERT HUTTON: I have been involved in my neighborhood...well, I've been involved with the association for probably four or five years now. [LB605]

SENATOR COOK: All right. But I missed your reference. Is it the Gifford Park Neighborhood Association, or a different neighborhood association? [LB605]

ROBERT HUTTON: Gifford Park Neighborhood Association. [LB605]

SENATOR COOK: All right, thank you. [LB605]

SENATOR KARPISEK: Any further questions? Thank you, Mr. Hutton. I agree with you, that's why we don't use the lights. But after today we might. (Laughter) Next proponent. Welcome. [LB605]

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DARRYL HUTTON: (Exhibit U) Thank you. My name is Darryl Hutton, D-a-r-r-y-l Hutton, H-u-t-t-o-n. Mine is fairly simple. The photo coming around is an example of one store in our neighborhood where, without a license being held at the time, beer, alcohol was being stored. I was actually able to reach into a cooler, grab some beer, walk up to the counter at one point until they further moved it back. But in addition to my easy access to their beer when they didn't have a license, several times saw what would appear to me to be a sale of beer while they did not have a license. So on the issue of having a license in order to store beer makes perfect sense to me, because it's just that temptation. It's sitting there; we're going to sell it. So in all aspects of the bill, I'm in absolute agreement. I started off, I didn't know a single thing about any liquor control act law. At this point, I feel like I can quote the book, and it's because when we go and we testify at a city council or Liquor Control Commission hearing, whatever it may be, we're held to this great high standard of: prove it. Okay, well, we'll go and do some research, and all of a sudden, before you know it, you learn one aspect; you learn another; you learn another. I'd be much happier helping out with the tennis program in our neighborhood, things that are constructive, helpful. And it seems like, to me, because of that lack of voice, we have to scream at the top of the mountain. We have to learn the every intricacies of the law, the process, the appeals, the withdrawal of the application because they don't think they have the votes, and we'll go and send it back again, and we'll go through this over and over and over again. I've missed countless number of hours of work, dealing with these issues. I lose countless hours of social life, because I'm dealing with these issues which I think should be pretty simple. Present a case to the city council; they make a recommendation and go to the Liquor Control Commission. They determine yes or no. If you want to, you can appeal it to the district court, and at that point go to the Supreme Court. Instead, we go over and over and over again, talking and not being heard. We can present fact. We can present evidence. It's routinely ignored. All we need is somebody to give us some weight to what our issues are. We live in our neighborhoods. We know what it is. I've seen in our case in my neighborhood where a business that is currently a gas station convenience store that has had alcohol in the past. I also recall prior to them having alcohol, a viable business, very good strong business, didn't affect the tax base. No problems, no crime, no...I felt very safe, walking right by that area as a child growing up and young adult. I also saw the impact when it became an outlet for alcohol and numerous outlets for alcohol where I've lived there all my life, and I'm afraid to walk one block away from my house? That shouldn't be the case. If it's a good viable business and an owner of the business, great. But I just would like to see it simplified in the process of, we have a vested interest in how we live our lives, and we just want to be heard. Thank you. [LB605]

SENATOR KARPISEK: Thank you, Mr. Hutton. Any questions? Seeing none, thank you. Further proponents? I will read in quickly letters of support by the Omaha City Council, Benson Neighborhood Association, Darryl Hutton--you were just here--Dale Robinson, Robert Hutton, Emerick Huber, Creighton University nursing student, Martin Janousek, Midtown Alliance Neighborhood Alliance, and Ford Birthsite Neighborhood

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Association. Do we have any opponent testimony? (See also Exhibits K, L, M, N, O, P, Q) [LB605]

KATHY SIEFKEN: Senator Karpisek and members of the committee, my name is Kathy Siefken, S-i-e-f-k-e-n, representing the Nebraska Grocery Industry Association in opposition to LB605. And first of all, I can hear the frustration of the neighbors, and it is frustrating, but there is a process that we all have to go through. And I think that they are frustrated with the process because it is long and it is drawn out. I first heard that there was a problem with this one specific company earlier...or I guess it was late this fall. I guess I didn't realize it was a liquor license issue. I thought it was a lighting issue, and I thought that that was a city of Omaha problem. I don't keep up on Omaha issues per se, and what you've heard today is a problem with the city of Omaha. And it seems that there is an approach to fix this with statewide legislation. There is a problem. It probably does need to be looked at, but the reason I'm in opposition to this bill is because, number one, I think that the Liquor Control Commission already has the authority to do some of the things that the neighborhoods were asking for. A couple of years ago, there was a bill that was passed that changed...the Liquor Control Commission "shall" give a license to these people that meet these criteria. That shall was changed to a may, which gave the Liquor Control Commission the ability to refuse liquor licenses to those people that, well, that had issues or have problems. They do criminal background checks. In that bill, there was also language that allowed the Liquor Control Commission to refuse a license based on density. And between the two, that should be able, in my opinion, take care of the things that we've heard today. Again, what I've heard today is that there's one bad player, and frankly, we don't like bad players. We don't want them to have liquor licenses, because when they mess up, like they apparently have been doing, it comes back and it hurts us. And so this is a bill that appears to be aimed at one company that's not doing things right, and my concern is how it's going to affect everyone statewide. One part of the bill says that people need to be current on all obligations, all of their taxes. What happens if there is a dispute with the IRS or with the state of Nebraska on taxes owed? Well, they're not current if there are taxes owed and if there is a formal dispute that is ongoing. Does that mean that you don't get your liquor license because the state of Nebraska or the federal government has issues with what you filed? Just something to think about. One of the reasons things are done the way they are today is to prevent discrimination. And when Mr. Rupe was in the chair earlier, he mentioned that there was a small community that said that they did not want to have a license approved for a certain person that wasn't one of the hometown boys. Yet two weeks later or a short time later, someone else came in and they had approved the same setup, the same type of thing. That's the kind of thing we don't want cities or communities to play favorites like that. And, again, I come back and I say that I understand that the neighborhoods are frustrated with what they're having to deal with, but this isn't the state of Omaha. This is the state of Nebraska, so as you talk about this after the hearing, please take that into consideration. I think there might be better ways to do things. There was also discussion about temporary agency

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agreements, and I think Hobie is probably going to talk about that. But allowing someone to operate under the old license and under the old name doesn't seem like a good way to do business. However, I don't believe that the Liquor Control Commission has the authority to provide for a temporary operator's license, and if they had the authority to operate under a temporary operator's license for, say, a limited number of days, say, 60 days, it would give those new people that come into businesses time to get everything in order. Now I can tell you that when a small store in rural Nebraska is purchased, sometimes that baby flips in a week. Someone is closing their store, the community is going to lose the only grocery store they've got, and a resident or someone else will come in, in the final hour, just before the sale, and they will go ahead and buy the store to keep the doors open. Now, if there isn't a temporary license...or operator's license, which they don't have the authority to give today, and there isn't a temporary agency agreement, what that would mean via Senator Howard's bill is that they're going to have to clear the liquor inventory out of the store. They can't sell that product until they go through the process and get the license, and do all the background checks and all of that that the Liquor Control Commission does. And keep in mind that these are small stores and small communities, and they need every profit center in that store to continue to bring in that income stream, because these are not big business. They are small mom and pop stores. So it's very important that those people in rural Nebraska are still able to sell those products. And, again, going back to the temporary operator license, it would be much cleaner if we could tweak that a little bit, flip it around, and I think the Liquor Control Commission would be happier; we'd be happier; and the neighborhoods would be happier, because then you've got the license under the name of the actual people who are running the business. You close that loophole, so that in the...well, in the instance of this Infinity purchase, there was a sale to a minor in that window of time, so it didn't go against either license. That's just wrong. So close that loophole, and I'm sure...I'm going to volunteer Hobie and myself. I mean, I'll work with whomever, whenever, wherever, to try and find a solution to this. I wasn't aware that they were allowed to work under someone else's license. And then Senator Howard had an amendment...well, before I get to that, Jan Quinley, who was one of the testifiers here today, she made a point that I think plays very well with what I'm trying to say. She was talking about how she wanted nice restaurants in her neighborhood, and she wanted good retailers and good licensees; we do, too. We don't want the bad players. We want the neighborhoods to want the businesses that go in there. And then, finally, Senator Howard had an amendment on fees, and the cost is substantially higher than the \$45 application fee. The \$45 application fee is a one-time fee that the applicants, when they first apply for the license. Hobie says that the real cost is between \$300 and \$350, and one of the testifiers said that the citizens of the state of Nebraska were actually subsidizing liquor licenses, and that's true. And that also is not fair, and it's not right. And so I think you...I would encourage you to take a look at those fees, because if someone is going to go into a community or into a business, and apply for a license, I think the cost of that application should be on their shoulders, not on the taxpayers of this state. Now, there is a program that we worked with the Department of Ag, and this

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is grocery stores. And this has been ongoing for probably, I want to guess, ten years, because we were constantly coming back and talking and taking up valuable time, your time, regarding the fees. And so, we worked out a deal with the Department of Ag, and we came in, and we all supported it, and this works. And what it is, is we were...what we did was we set a cap which was...the percentage rate was 17 percent above where we were right now. And you could...and what the Department of Ag does now with both weights and measures and dairies and foods is they have a cap, and when they get to that cap, then they have to come back to the Legislature to get permission to raise the cap. And I can tell you that the first time that we did that, we didn't have to come back to the Legislature for six years. The second time, we're going to have to come back sooner because costs have gone up. And the second time it only lasted three years. But what that does is it gives the industry a feeling of control, that you're not just turning your checkbook over to the government, and we all have some hesitation in doing that. But if you take a look at what we did over in ag, if we could set some...and I haven't talked to Hobie about this or anyone else. But it is a program that works over there for those fees, and I would appreciate your consideration, if you addressed the fees and maybe going that route. If you have any questions, I'd be happy to try to answer them. [LB605]

SENATOR KARPISEK: Thank you, Ms. Siefken. Any questions? Seeing none, thank you. [LB605]

KATHY SIEFKEN: Thank you. [LB605]

JIM MOYLAN: Mr. Chairman and members of the committee, I'm Jim Moylan, M-o-y-l-a-n, attorney from Omaha. I represent the Nebraska Licensed Beverage Association, which is a state association of liquor retailers. One thing I've noticed today, we've heard about exceptions, exceptions, exceptions. And we find out exceptions generally make the law. But don't forget, for every exception, there's 4,500 other liquor licenses out there that are abiding by the law. And there shouldn't be one exception change it for all of them. Now, if there were no exceptions, we wouldn't need a liquor commission, wouldn't need law enforcement, wouldn't need city councils to work on this, you know. But you're going to have them in every business. Number two, I don't know whether this bill is directed at the liquor retailers, local governments, or the liquor commission. But I have to tell you, I've been before the liquor commission many times. The newspaper incident...well, let's call it an exception again, and I don't think that the commissioner is probably there. I worked with them many times. There's a young lady on there, been on there well over 12 years, and she's a lawyer from Scottsbluff. We have a new one appointed, a highly respected retailer from the city of Omaha, not a liquor retailer, a furniture retailer. And the third one is an elderly gentleman who was in the liquor business, retail business, for over 40 years. Now I've been before them, and they're a good commission. They follow the law. They've turned me down on licenses. They've suspended licenses on clients of mine over the years. But I just don't think that they deserve, you know, the treatment that they got today from some of this group, you

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know, here that were testifying in favor of this bill. Now I'd like to go through the bill, and I'm not going to take a lot of time on it because you've heard a lot of it. Number one, the tax obligations. No doctor, dentist, chiropractor, lawyer, accountant, or even veterinarians have to certify before you get your license every year. Why should the professionals in this business have to do the same thing? It doesn't seem right. Number two, we have agencies to take care of that. The Revenue Department takes care of state revenue, Internal Revenue Service, federal revenue. Workers' Comp Court takes care of theirs, and the Department of Labor for the employment security law. Now, these establishments, they respect their license; they run a good business, and they have to pay their taxes or they would not be in business. You're going to put a big burden on all those departments and on the liquor commission every April and October when those licenses are due, because back here, it also applies on renewals of licenses. So we don't think that's...you know, that they ought to be doing that before...against, you know, the retailers when they're not doing it for any other profession. Now we're over to the neighborhood group. I guess, like Senator Price said, if you want to take line 4, the commission may "grant or deny", and add "grant or deny"... "grant or" in there before "deny", and on the next sentence, "the application based solely upon the"...add "support or opposition", that's fine. But right now, as you've heard already, the system is already in place for everybody to object at the local governing rule and also to do it at the liquor commission. So I think it's just superfluous and really not needed. In the temporary agency agreement, you know, it's probably the most feasible way in the world for, let's say a widow. Her husband dies; she wants to get rid of the business, because she doesn't really know how to run it. So the temporary agency agreement is an expedient way to do it. If she can find a buyer, they can get the license. She can get the buyer into the place and operating it, and continuing the business rather than just closing it down, the customers all leave. She would never get it sold. It's been a very expedient system over the years, and I've handled many licenses over the years where we've done it. Occasionally, they might not use it. The seller might say, no, I'm going to stay in here, right up until your license is granted. When it's granted, then you can walk in. That does happen. But generally, the seller would like to get out, and the buyer wants to get in, you know, right away, and take over while the business is good. Sure, another exception: on one of those, a minor was sold by the buyer's people, but yet the original licensee was, you know, charged with the offense. Another exception, but it very seldom happens. I don't think you want to turn over the applecart under that particular system, and practically destroy a system that has worked tremendously over the years, you know, in the business. And no retail business shall store alcoholic liquor on its premises, you know, unless you have a liquor license. I don't know, what about a church that just had a special designated license function which expires at 1:00 in the morning, and they've got liquor left over? They don't have a license anymore. What are they going to do with that, take it out and pour it out on the street, you know? Take it back and serve it on Sunday morning or something, you know? I mean, I just don't think you need that. There's very little liquor being stored on places that do not have a liquor license, you know. And this only pertains to businesses,

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you know, so. I just think it's a bill that's not first time. And I appreciate, you know, councilman Vokal; I know him well, a nice young guy, you know. I don't think this has anything to do with politics, but I believe he is running for city council, come to think about it, so. Last year, this industry got hit upside the head with the smoking ban which has had a tremendous impact on all of them across the state. We don't look forward to having, you know, another one of these bills, this type, this year. On behalf of the state association, we'd ask you to not advance this bill to the floor. If there's any questions, I'd be happy to try to answer them. [LB605]

SENATOR KARPISEK: Thank you, Mr. Moylan. Any questions for Mr. Moylan? Seeing none, thank you. [LB605]

JIM MOYLAN: Thank you. [LB605]

SENATOR KARPISEK: I also have a letter of opposition from...on behalf of the Responsible Beverage Operators of Nebraska and Kelley & Jerram, P.C. Any further opponents? Neutral testimony? Welcome back. (See also Exhibit V) [LB605]

HOBERT RUPE: I'll try not to stay too long. I can tell everybody's getting a nice glazed-over look in their eyes. Once again, My name is Hobie Rupe, H-o-b-i-e, since everybody's been calling me by my first name, I guess, and Rupe, R-u-p-e. I'm the executive director of Nebraska Liquor Control Commission. A couple of things I want to bring up. And I guess we're testifying neutral, and I'll be the first to admit that there's parts of this bill I really like, because things are decent and looks forward to. Parts of them we have no opinion on, and parts of them sort of give us a little...make us a little concerned about. The first thing I'm going to bring it up to...and I was going to go through the bill and say what parts we liked, but some of the things which came up. You've heard a little bit about the Infinite Oil case today. The citizen protestants won. The commission denied all four of those licenses. They didn't come up clear. They actually prevailed in front of the city council...or in front of this commission, and that's one where we actually overrode the city of Omaha and denied those licenses after they had approved some of them. I find it very interesting to have the lobbyists for the city of Omaha come up and sort of say, well, they don't always agree with us. Ninety-five percent of the time the city of Omaha comes in and puts a good case on, and you can check with Tom Mumgaard. He's happy. In fact, Mike Kelley was really ecstatic for the first time in four years on one issue of a case recently. He beat Tom Mumgaard in front of the commission, and because the commission thought the city council was using a sledgehammer to smash a fly on a relatively ticky-tack breaking one of those agreements and going straight to cancellation. The Cheema's case which was referenced by Ms. Riibe earlier in regard to temporary agency agreements, that was a horrible tragedy. It was compounded by the fact that after we were made aware of it, it took us over four months to get the city...have the sheriff's office in Scotts Bluff County to send those reports in to us including two personal requests by the liquor investigator

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assigned to Troop E. Ms. Riibe wanted us to cancel those licenses without a hearing. She wanted us to say, well, they...you know, it's clear. That brings me to my next issue. A lot of times what the commission does is quasi-judicial. We are a fact-finding body. We have to apply the law. I have the honor of serving as executive director; I also have the honor of serving as a hearing officer, and so I serve as the administrative law judge. The act allows for someone to request the formal rules of evidence. Doing the formal rules of evidence when one side does not have an attorney, puts a tremendous strain upon the workings of the system. In the case where the evidence which they did not have at the pretrial conference was the rebuttal evidence which they had 72 hours afterwards to get in after they saw it. And I'll go back. The person who supposedly didn't have the evidence in front of the commission ultimately lost that case. Why did we have to have a pretrial hearing on that in the first place? Well, a couple of things happened on the Infinite Oil case. For the first part, when it came to hearing, we only had two commissioners. At that point in time, we did not have a commissioner from the 2nd Congressional District. The vote split one to one. They reapplied after we had a third commissioner, and the protestants won on that time two to one. So they asked for a rehearing, because there had been a one to one split at the hearing beforehand. All right, going through the things about the bill which are really good, all right. The first part of it is, how shall I phrase this nicely? It's getting late. Temporary agency agreements can be a royal pain in the lower regions for the commission to utilize. They're an artifice which came out in the mid-1980s, and the purpose of it was, given the fact that the Legislature has at least, as I discussed earlier, a 45-day lag time built into it, if everything goes right, and we have a commission standard of trying to get licenses out within 45 to 60 days, what you were having was businesses who were making the sale being closed for almost two months. The theory was, especially on retail establishments, that you would lose that business, so the issue of the temporary agency agreements came up. Would I much prefer the ability to give out a temporary operating permit for 90 days knowing that there is no guarantee they're going to get it, and, therefore, holding the actual person who's in there running the place responsible? Yes. And if you're willing to look into that, I'd be willing to help you and help you draft some of the language to do it. Unfortunately, under the existing language, the temporary agency agreement was the closest thing we could come to sort of try to make it as a bridge. As I've always said, a temporary agency agreement is a bridge between two valid licenses. Unfortunately, a lot of times, the new license falls down and there's nothing to build the bridge to. And as a matter of fact, the commission has as part of its rules and regulations, if it denies a liquor license, all temporary agency agreements are cancelled at that point in time. So we are aware that there can be problems in regard to that. You heard earlier about sort of the costs to appear in front of the commission that came out of the Infinite Oil case. I want to let you know, I wrote a recommended order to the commission, basically awarding the petitioners about three-fourths of their costs that will be addressed by the commission later this week. So yes, they spent that money, but the commission is also going to order that because they were the prevailing party that they're going to be entitled to recoup those costs. I just want to let them know that they

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will be getting some of that money back. A couple of things that we do like otherwise. There was a loophole that allows a nonlicensed place to store. I think the commission would support that issue. There might be some issues that come around. Oftentimes, say, a Hy-Vee is going to open. They get quite perturbed when we won't allow them to go in and set up their liquor department until they get their liquor license. But guess what? They can handle it; they can deal with it. It shouldn't be a problem. We should be able to do that, but it is a loophole. There is nothing that prohibits the storage there. It prohibits the consumption or the sale of that product, but not the actual storage of it. Senator Price asked an interesting question about whether other licensees such as doctors and lawyers have to do the requirements of the insurance or the taxes. As far as I know, they don't. Is that a bar to keep you from placing that as a condition if you see fit? Not at all. The 21st Amendment to the U.S. Constitution gives states the rights to regulate and control the liquor industry within their states and their borders. If you feel that there is a legitimate reason to have it as part of that, it's within your discretion as a Legislature to put it in there. It's a lovely thing about the 21st Amendment. It's the biggest states' rights bill in the...part of the Constitution. A couple of other things. I want to thank Senator Howard for the amendment. That will, hopefully, at least to keep the auditors a little bit nicer to me. They yell at me every time when they come audit us and say, how come you're only charging \$45 when it costs you hundreds of dollars to process a license application? And my response is, that's all this book allows me to charge for it. It does cost about \$300. As we went through earlier, I'm not going to go through it, the commission and other state agencies do expend a lot of effort in doing that. One thing to realize is that although license fees generally go to the local governing bodies, the application fee does go straight to the General Fund. We might need to clear the language up. I'm not sure if Senator Howard meant to have that apply to renewals, because you have to renew every year. We charge the same \$45. I'm assuming she didn't, because renewals generally don't have the same workload that an initial application does. Another question that I told Senator Howard I would try to clean up, and this goes back to Senator Price's question. You're right. One of the things the commission may consider in granting a liquor license already is the presence of a citizens' protest. That was one of the reasons we gave in the denial of the Infinite Oil cases. The problem that people look at...it's always great when you look at a law, and you look at a vacuum; it says exactly what you think it does until you start reading the case law that the courts have used to interpret that. The courts have sort of almost done, like, a weighting, you know, an aggravators versus mitigators type thing, on liquor license applications. And so, the more reasons you have, the better, at least when you're getting a judicial review. I'll give you an example which the commission thought they were on solid ground for. And it's another nice political issue. It has to do out in Whiteclay. About three years ago, one of the liquor licenses out there at the Arrowhead Inn, the owner of it was getting into problems. He was under indictment. He had not yet been convicted. He decides that it was time to get out of the business and sell the business to his son. His son had two liquor law violations while he worked for his father. Based upon that, the commission denied that application, said no. District court of

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Lancaster County reversed us on it and said, ah, two relatively minor convictions three years ago isn't enough to deny the continuation of a family business. So always remember that, you know, the commission is operating under the rules set out by this Legislature also as they are interpreted by the third branch of the government--in this case, the judiciary. So I think that the language which Senator Howard has specifically stating that the commission may deny solely based on that is, a lot of ways, I think, aimed less at me and more at the judge who might be reviewing the decision based upon a denial by the commission, because it clearly says, it's legislative intent if it's passed, that we're going to give weight to that citizens' protest. And they can sort of, in a vacuum, serve as a reason for denial. One last thing, and I'm probably rambling a little bit. I'm just trying to get through this stuff because I know everybody probably wants to get out of here; it's getting a little tiresome. The commission takes its job very seriously. In the Infinite Oil cases, those hearings went for eight hours plus. Oftentimes a quasi-judicial function is not easy, and there's questions asked, and you have to prove up, especially the case where the former rules of evidence are applied where, you know, where you've got heresy objections based upon the evidence that a citizens' protest wants to be in. Luckily, they had an attorney who helped them. I also would like to say that I helped as a hearing officer, helped clarify the foundation what was required of them. But any time you're having a hearing which is determining the rights or abilities of a person who's seeking a liquor license, how to conduct his business on his property, you've got to have some due process on it. You just can't sort of hold your finger up to the wind and say, which way is the political wind blowing on this? You have to look at each individual case, and you have to apply the laws that apply. And so--I said this when I got the job about five years ago--if I had half the people half mad at me half the time, I was probably doing my job. So far it sounds like I'm doing my job pretty good. I'd be prepared to answer any questions. [LB605]

SENATOR KARPISEK: Thank you, Mr. Rupe. Any questions? [LB605]

SENATOR ROBERT: I hate to do this, but I do have one. [LB605]

SENATOR KARPISEK: Senator Robert. [LB605]

SENATOR ROBERT: Hobie, just on your opinion of Section 6, it talks about the storage of off-premises alcohol without a license. Well, there's no penalty written into the bill, and is there a definition of a retail business somewhere that I'm not seeing? [LB605]

ROBERT RUPE: If there's not an explicit penalty provided in a subsection of the act, for criminal....because it would then be a criminal...because if they're not a licensee, the commission's authority over them goes away. You got to remember, we have the power to suspend, cancel, revoke. [LB605]

SENATOR ROBERT: Yeah, you wouldn't have... [LB605]

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HOBERT RUPE: If it is a nonspecific penalty, it's a Class III misdemeanor under the act. [LB605]

SENATOR ROBERT: Well, my concern is, I own a real estate office. Is that a retail business? I don't know, but that says I can't store any alcohol on premises. I'm not about to get a liquor license. [LB605]

HOBERT RUPE: I think, you know... [LB605]

SENATOR ROBERT: You don't want that. [LB605]

HOBERT RUPE: What I would do...and I hope Senator Howard might look at me...yeah, I'm not sure I could give you a liquor license, Senator Rogert. There would be a long and arduous hearing in front of that one, and you'll be answering my questions for a change. I would say, if I were to at least maybe argue a friendly amendment to that, if it's Senator Howard's intent to keep a place which is normally open for retail, is perhaps put a gallonage limit. In other words, put perhaps, you know, in excess of 20 gallons. And I'm not just pulling 20 gallons out of thin air. Twenty gallons is the quantitative purchase standard which is already in there. So, in other words, Senator Rogert, if you're going into your local supermarket, you're buying 20 gallons or more of alcohol, they're supposed to send a report...write a report down and send it to the commission because that's sort of the thing about 20 gallons or more whereas it might set in that you're actually operating a retail license without retail permit. So if you're looking...if that's the intent is to keep somebody from keeping what I would consider retail quantity alcohol on the premises of a retail establishment, you might want to look at that, and there is some guidance of it in other parts of the act for that. [LB605]

SENATOR ROBERT: Okay. [LB605]

SENATOR KARPSEK: Senator Dierks. [LB605]

SENATOR DIERKS: Hobie, when you're reviewing liquor license applications, do you take into consideration the number of establishments in that area? [LB605]

HOBERT RUPE: In a vacuum, no. And I'll tell you why, Senator Dierks. Years ago, there was a population density thing that Omaha used that got struck down by the Supreme Court. And the Supreme Court was very clear that we need to look at a liquor licensee sort of in a vacuum. Can this individual perform a liquor license? I think the court was very, very leery of the state determining who was going to be able to compete for business and who wasn't. Now, the Legislature did change two years ago, that if there is documented case of an increase in...as Ms. Siefken said, for density and you can cause that into an increase in crime, then it becomes a health, safety, and welfare

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issue, and then the commission can utilize that discretion. I'll tell you, I'm really hoping for the first test case of that, and I can tell you that it's probably going to come the next time somebody tries to open up a bar in downtown Lincoln right along the O Street corridor, because of the law enforcement problems there. So in a vacuum, it's very difficult for us to look at that. Now we do get some guidance from the Hamilton Outlet Tobacco case. Hamilton Outlet Tobacco was a new establishment. There was enough other ones there, and the court said that, you know, we thought that because the person met the requirements, we couldn't say no, honestly. There's every once in awhile what I like to call a good loss, where the courts will say, hey, now you should have looked at that, and gives us more authority. And we're still trying to struggle with how that Hamilton Outlet Tobacco case will affect. It sort of came into play in these Infinite Oil cases, but in some ways it was comparing apples and oranges. Hamilton Outlet was a brand new location which had never been licensed, where the Infinite Oil cases, all four of them that came before us, had been licensed, some of them for almost 20 years. And so if you're just replacing an existing one, are you really adding to the license density? So we're struggling with the density issue right now, and, in fact, we hope we might have some legislative changes coming up next to try to address some of our concerns, and that we're doing some research with other states as to how their license density aspects work into it. I just got a report from a law clerk that I hired on the basis, sort of looking at all the other states, because as you're aware, because of that same 21st Amendment, there's 50-plus different ways you can skin a cat, or, in this case, sell a beer. [LB605]

SENATOR DIERKS: In the case of Ewing, Nebraska, town of 430 people at last count, probably fewer than that now, at one time, there were three liquor licenses. Now there are two. Is there a limit to the number of liquor licenses that go into that town? Do you base that on population? [LB605]

HOBERT RUPE: There is no population base within the act. As I said, the city of Omaha had a population base density, and the Supreme Court struck it down as being unconstitutional. I'm not sure...so that's one reason why we're being very careful in addressing that as a commission currently, because we want to make sure that what we're going to do would be constitutional. You know, there's a lot of differences whether the city had less power than the state might have, but that's why we're looking at other states to address a lot of those concerns, because the commission is very cognizant of density issues. That's one reason why we helped sponsor the density bill which passed a couple of years ago, because we thought that so long as there's a connection back to law enforcement resources, there was health, safety, and welfare, which gave us a little more power, you know, once somebody...as I said, once the black robes started looking at it. So. [LB605]

SENATOR DIERKS: Thank you. [LB605]

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SENATOR KARPISEK: Any other questions? Hobie...you're Hobie; I'm Karpie. It just happens to be that's your first name (laughter) but it sounds like a nickname. Would you say the reason that these liquor licenses have been granted is because you don't have a law to not grant them? [LB605]

HOBERT RUPE: As I said, you know, the commission looks at them and, you know, we look at this. We try to apply this. I mean, we definitely try to hang our hat on a ratio here. One of the issues why the Infinite Oil cases were denied by the commission was because of the evidence that was brought forward by the citizens' complaints. Many of the citizens believed that they could not comply with all aspects of the liquor control act. Now, unfortunately, that same place got a couple of other licenses which went through without any protest. So, you know, I mean, do we catch all the bad actors when they come through? No. But in this case we did, you know, catch those, and denied those applicants. [LB605]

SENATOR KARPISEK: I guess what I'm trying to ask is, in your opinion, the people's voice does count, but just that alone isn't enough just to throw out a liquor license? [LB605]

HOBERT RUPE: You're absolutely right. The courts are saying we've got to balance it out, because what you're looking at, you're absolutely right, it is a privilege to get a liquor license. It is. And to get that, there are certain criterias. I mean, 53-125 has a laundry list of people who no license shall be issued to. And if you can say, point to one of those positions and say why, it's easy to deny. It's when you can't really link it to one of those provisions which is in 53-125 that it gets more problematic. In which case, then you've got more judgment calls, is do you believe this individual can comply with the act? And generally, you need evidence to show that he's got a problem with that, either complying with other liquor...the Liquor Control Act earlier or other regulatory schemes. And so, there's things in there. But I think it's supposed to be difficult to say no. These are people who are seeking to do business and, you know, the vast majority of liquor licenses go through without a hitch, and they go out there, and they don't cause any problems. You know, as I like to say, you know, I think about 90 percent of the licensees...I would say 99 percent of the licensees want to do the right thing and only about 90 percent of them do, so we've got that one 8 or 9 percent that just gets lazy or sloppy that we have to sort of correct through sanctions and punishments. And then you've got the 1 percent who are just bad actors, and in this case, I think the commission was convinced after the hearing that it had before it, that the applicant for Infinite Oil was going to be one of those bad actors. And so, therefore, they denied the license. [LB605]

SENATOR KARPISEK: Okay. To me, that seems like a big part of this, and I don't want to drag it on. And I will just comment...I'm not going to ask you, but I think you brought up the constitutionality part that may be an issue here. And I know that we don't want

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you to give maybe...you're not the Attorney General, but I think we need to be careful here, and I'm glad that you recognize that. And as you said, there are some parts to this bill that I think are very good, and I've heard some good talk. So I think we have a place to move forward, but I think we need to be careful. [LB605]

HOBERT RUPE: I think you definitely have to be careful, because, you know, (a) liquor law generates litigation a lot of times. And you have to be careful any time you're telling somebody, even for the best of intentions, how they can operate their own business and their own property. And that's really what we do when we give a Liquor Control Act. You give up some certain constitutional rights when you get a Liquor Control Act. You allow...Sergeant Costello, he was at the back of the room with the Nebraska State Patrol. If you decide you get a Liquor Control Act, I mean, a license under us, he can enter into your licensed premises any time and do a premises inspection. He doesn't need a warrant. He doesn't have to have probable cause. He can walk in and do a liquor inspection, and you give that up when you get a liquor license. So I think any time you're dealing with a regulatory scheme with as many issues, I think you're absolutely right to be careful in proceeding. [LB605]

SENATOR KARPISEK: Okay. Any other questions? Thank you, Mr. Rupe. [LB605]

HOBERT RUPE: Thank you. [LB605]

SENATOR KARPISEK: Any other neutral testimony? Senator Howard, to close. [LB605]

SENATOR HOWARD: Thank you, Hobie. Thank you. Thank you, Mr. Chairman and members of the committee, your patience and diligence and endurance are to be commended. I've been asked to mention the Highland Neighborhood Association as well as Chip Maxwell have also sent letters in support. You may have mentioned that... [LB605]

SENATOR KARPISEK: I did, but that's fine. Thank you. [LB605]

SENATOR HOWARD: ...and they may have missed it. Thank you. A couple of things I want to address departing from the notes I'd written. Mr. Moylan brought up the incident of churches and his deep concern for those. Churches are not liquor outlets. They're not affected by this bill at all. What they choose to do with their leftover liquor and communion wine is way aside from this bill. I appreciate Hobie stating for the record that with the Infinite station and the situation, that there will be...there has been a decision that the neighborhood associations and the liquor commission they formed and had to front the money to go through the entire process, a portion of that will be refunded. However, it's become apparent that the owner has skipped town. One of his facilities, 52nd and Leavenworth, has been left unattended for, I would say from before Christmas. They had a water pipe break in there, and flood out, and they had actually

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contacted me, and I had no idea where he'd gone; no one could reach him. Taking that a step further, yes, those liquor requests from Infinite were denied by the liquor commission on four occasions. However, this same organization with this same attorney went back before the city council, it was probably a month ago, and they were given a liquor license to operate under the Infinite name once again. So you can see why there's an issue with this, why I've drafted this bill, why I've come before you. This is truly a grassroots volunteer community effort to bring about a sense of fairness and a level playing field when it comes to liquor licenses in this state. It's never easy when citizens go up against well-funded interest lobbies, and you saw that today. I want this committee to remember that all the neighborhood proponents of this bill have taken their own time off work, have driven to the Legislature to be here today because this issue is so important to their communities. Regarding the amendment, the attention...the intention of the amendment is to cover the actual costs of issuing the license when it's granted. I see no reason under the sun why we're subsidizing, or, in this case, possibly bailing out people applying for a liquor license and charging them \$45 when it costs in excess of \$300 for the state to process and issue that. I pay more for my pets to be licensed than we're paying for a liquor license. To me and to the neighborhoods that I represent, this is crime; this is density. When liquor licenses are poorly managed, they become magnets for crime, and not only the liquor...the licensed establishment, but also the surrounding neighborhoods are affected. Residents have had enough of this crime and are here today asking for your help to give them more of a voice in their own government. And I don't think that's too much to ask. Frankly, I ask you to read closely 53-149, 53-132, and the related Nebraska Supreme Court decisions, which we've given you some of those, as well as the research that was presented here today during discussions. Clearly, we have some conflicts in our liquor license process and we, as people representing those who voted for us, have, I feel, an obligation to address this. Again, I appreciate your time, your diligence. I thank all those people that have come here today and have been so patient, and thank you. [LB605]

SENATOR KARPISEK: Thank you, Senator Howard. Any questions for Senator Howard? I would just ask, is this a local control issue, Senator? [LB605]

SENATOR HOWARD This is an issue that affects everybody that lives here in the state of Nebraska. If you drink (laugh). [LB605]

SENATOR KARPISEK: Thank you, Fred Astaire, as Senator Chambers always told me (laugh). [LB605]

SENATOR HOWARD: Yeah (laughter). [LB605]

SENATOR KARPISEK: That ends the hearing for LB605 and the hearings for today. (See also Exhibits W, X, Y, Z) [LB605]

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Disposition of Bills:

LB478 - Held in committee.
LB576 - Held in committee.
LB605 - Held in committee.
LB664 - Held in committee.

Chairperson

Committee Clerk