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General Affairs Committee
February 06, 2012

[LB789 LB978 LB987 LB1130 CONFIRMATION]

The Committee on General Affairs met at 1:30 p.m. on Monday, February 6, 2012, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB789, LB978, LB987, LB1130, and gubernatorial appointments. Senators present: Russ Karpisek, Chairperson; Bob Krist, Vice Chairperson; Dave Bloomfield; Lydia Brasch; Colby Coash; R. Paul Lambert; Tyson Larson; and Amanda McGill. Senators absent: None.

SENATOR KARPISEK: Okay. Good afternoon. Welcome to the General Affairs Committee. My name is Russ Karpisek and I am the Chair of the General Affairs Committee. For those of you here in the room, the committee members present are, to my far right is Senator Brasch of Bancroft; next to her is Senator Bloomfield of Hoskins; then Senator Coash of Lincoln; our Vice Chairman of the committee, Senator Krist of Omaha. Next to me is Josh Eickmeier who is the committee legal counsel from Seward; to my far left is Christina Case who is our committee clerk; then we have Senator Larson of O'Neill who will be joining us soon; then we have Senator Lambert of Plattsmouth; and Senator McGill of Lincoln. Our page today is Lacey Schuler. After each bill introduction, we would like to hear testimony in support of the bill, then testimony in opposition, and finally neutral testimony. If you are planning on testifying in any capacity, please pick up a sign-in sheet that is on a 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 the page so that she can give it to the committee clerk. This will help us make a more accurate public record. If you have handouts, please make sure you have ten copies for the page to hand out to the committee. If you need more, please have the page run them off for you. When you come up to testify, please speak clearly into the microphone. Tell us your name, and spell your first and last name even if it's a common name. Also please tell us whom you are representing if anyone. Please turn off your cell phones, pagers, or anything else that beeps. Please keep your conversations to a minimum or please take them out in the hallway. While we do allow handouts, we do not allow visual aids or other display items. We also will try to not use the light system today. I feel that people come in, they deserve time to speak; however, if things are getting a little long I may ask you to wrap it up, or if it gets way too long we will start using the lights. Thank you for your cooperation on all of that. Before we begin bill hearings, we have two appointments for our consideration today. Our first appointment is Jon Hinrichs for the Arts Council, and he is joining us by phone. Welcome, Mr. Hinrichs. [CONFIRMATION]

JON HINRICHS: Thank you very much. I wish I were there in person. However, I hear about the 11 inches of snow you received and I'm in a warmer place right now. [CONFIRMATION]

SENATOR KARPISEK: (Laughter) Well, good for you. [CONFIRMATION]

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JON HINRICHS: Right. [CONFIRMATION]

SENATOR KARPISEK: If you could, just give us a little background or whatever you want to tell us. [CONFIRMATION]

JON HINRICHS: Sure. Well, I'm a retired family practice physician; I practiced in Lincoln. I was born in and grew up in Nebraska City. I am 69 years of age. I'm very excited about my potential for the role on the Nebraska Arts Council. It's been a lifelong passion of mine. As a matter of fact, music has played a large role in my family and that's how I paid my way through college and medical school, playing with various dance bands and combos. Later in life, my wife and I have been involved with the visual arts as well. My wife, Donna Woods, has been on the MONA board and the Nebraska Arts Council as well, so I sort of followed her along. Other activities of mine: I spent ten years on the Lincoln Symphony Orchestra board, about ten years on the Nebraska Jazz Orchestra board. I'm presently on a couple of boards at BryanLGH Hospital in Lincoln, including their systems board, and various other things. I'm open to any questions that you might have. [CONFIRMATION]

SENATOR KARPISEK: Very good. Thank you. Are there any questions from the committee? I see that Senator Coash is your state senator, so you're very well represented, especially on this committee. [CONFIRMATION]

JON HINRICHS: That was noticed. You bet. [CONFIRMATION]

SENATOR KARPISEK: I don't...we do. Senator Krist has a question. [CONFIRMATION]

SENATOR KRIST: Yeah, what's the warm place you are? [CONFIRMATION]

JON HINRICHS: (Laugh) I'm presently in Palm Desert, California. [CONFIRMATION]

SENATOR KRIST: Oh, forget. (Laughter) [CONFIRMATION]

SENATOR KARPISEK: Any other questions? Seeing none, do we have anyone as a proponent for Mr. Hinrich's appointment? Seeing none, is there anyone in opposition? [CONFIRMATION]

SENATOR MCGILL: There are like 50 people lined up (inaudible). (Laughter) [CONFIRMATION]

SENATOR KARPISEK: All their hands went up. [CONFIRMATION]

JON HINRICHS: I'm pacing the floor. [CONFIRMATION]

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SENATOR KARPISEK: Seeing none, is there any neutral? Anyone neutral? Seeing none, we appreciate your calling in today and hope you get a sunburn and I hope it hurts. (Laughter) [CONFIRMATION]

JON HINRICHS: I do too. But I certainly appreciate being able to speak with you this way anyway. [CONFIRMATION]

SENATOR KARPISEK: We do too. Thank you, sir. [CONFIRMATION]

JON HINRICHS: Okay. [CONFIRMATION]

SENATOR KARPISEK: We will next have Pamela Price. Welcome. [CONFIRMATION]

PAM PRICE: Thank you. I'd rather be where Jon is. [CONFIRMATION]

SENATOR KARPISEK: Well, we all would. Well, no we wouldn't. We're glad to be here. Welcome again. [CONFIRMATION]

PAM PRICE: Thank you. [CONFIRMATION]

SENATOR KARPISEK: Can you give us your name and spell it, please. [CONFIRMATION]

PAM PRICE: Sure, I will. [CONFIRMATION]

SENATOR KARPISEK: And tell us whatever you'd like. [CONFIRMATION]

PAM PRICE: Okay. My name is Pam Price, P-a-m P-r-i-c-e, and I'm glad I got that right. It would be pretty embarrassing if I didn't. I am currently with the Stuhr Museum Foundation in Grand Island, Nebraska, as its executive director. And the role of our foundation is to raise funds, unrestricted funds, special project funds, endowment funds, for the Stuhr Museum of the Prairie Pioneer. And in that role I certainly appreciate the efforts of the Nebraska Arts Council and the Nebraska Humanities Council and all the other potential funders of the museum. I serve on currently in my sixth year at the Nebraska Educational Television and Radio Foundation, which I've enjoyed that work an awfully lot. I also am keenly interested, in addition to arts and humanities, in education, and serve on the Superintendent of Schools Advisory Council; and also with the Grand Island Education Foundation, I'm a trustee. My husband and I are also ambassadors, which means we wear purple Islander shirts to the athletic events and the other activities, and we meet and greet, particularly the opponents, because we're trying real hard to promote good sportsmanship in Grand Island, and it seems to be working. Often the opponent kind of rears back when we're sticking our hand out,

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"Wishing you good game; welcome to Grand Island." But that's been lots of fun, and we're seeing positive results from that. In Grand Island at the museum, just next week we're ready to kick off the Wings Over the Platte art exhibit which is very much supported by the Nebraska Arts Council. That exhibit is in its twenty-sixth year, and we always have a featured artist, and we have many wonderful paintings, sculptures, and so forth that have to do with the crane migration, and it's always a big event at Stuhr. And then following that we immediately go into the Hall County art exhibit where every middle school and high school in the county, their kids come out and show, and then their families can come and see their efforts. And in the fall we always have the Art and Sketch Club exhibit. So we have art and sculpture in the museum pretty much year-round on exhibit. And I guess other than telling you all how much, how proud I am that our Nebraska Legislature supports the arts not only through the Nebraska Arts Council but the cultural endowment, I think we're very, very fortunate to have a steady support for the arts in Nebraska. [CONFIRMATION]

SENATOR KARPISEK: Very good. Senator McGill. [CONFIRMATION]

SENATOR MCGILL: I'm going to pick your brain for your expertise real quick since you're interested in education as well and involved there. [CONFIRMATION]

PAM PRICE: Yes. [CONFIRMATION]

SENATOR MCGILL: How do you think we're doing in terms of arts in schools? I know we have a lot of people...some people are beginning to get concerned that we test to the test so much that we might lose some of that innovation in our children and then in our work force to creatively come up with new ideas and new products, etcetera. So how do you think we're doing, at least out in Grand Island? [CONFIRMATION]

PAM PRICE: Well, given that my daughter is a fourth grade teacher in Omaha, and certainly the fourth grade is a big testing year, I know it is always of concern to her that they're teaching to the test, spend a lot of time doing that. But I also think we have tremendously creative teachers. It's interesting that you should ask that because just last week I got an e-mail from the Nebraska Arts Council, and there's a picture of kids, probably fifth-graders I'd guess. The guys have on black pants and white shirts and ties, and the girls are all dressed to the hilt, and this particular picture had a lot of Hispanic kids in it, and they were doing ballroom dancing. And I understand in Omaha, and I don't know who all is responsible for it but I suspect Nebraska Arts Council has a little piece in that or they wouldn't be promoting it, but they provide ballroom dancing opportunities, instruction in the schools. Teach the kids how to do the waltz and the fox trot and those kinds of things, and the kids love it. And I know this wouldn't be done if it weren't for probably additional outside support for this kind of thing. But you are right, I worry so when I hear in the curriculum, particularly in the high schools, I guess I don't know why any more than in the elementary schools, but the fact that we just are cutting

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the strings programs and those kinds of things. I think it's a sign of the times. I think when we get flush again maybe it won't be as bad as it has been. [CONFIRMATION]

SENATOR MCGILL: I hope so, because what makes America great is our creativity and innovation, and the arts is a part of that. [CONFIRMATION]

PAM PRICE: And a lot of kids that have those abilities don't necessarily have the academic ability sometimes that they can get good feedback and self-esteem and strokes from. So I think music and art are tremendous in terms of getting kids engaged in staying in school. [CONFIRMATION]

SENATOR MCGILL: All right. Thank you. [CONFIRMATION]

SENATOR KARPSEK: Thank you, Senator McGill. Any other questions for Ms. Price? I would just say that...I don't know how long you've been on the superintendent... [CONFIRMATION]

PAM PRICE: The advisory committee? [CONFIRMATION]

SENATOR KARPSEK: Yeah. How long have you been on that? [CONFIRMATION]

PAM PRICE: Not very long because we have a new superintendent in Grand Island. [CONFIRMATION]

SENATOR MCGILL: Oh, yeah. We stole him. [CONFIRMATION]

PAM PRICE: Yes, I know you did. You got a good one. [CONFIRMATION]

SENATOR KARPSEK: I was just going to say that it would have to be easier to work with them now that he's gone, because he was my football coach in high school, so I would feel your pain. [CONFIRMATION]

PAM PRICE: We liked him a lot I have to tell you. [CONFIRMATION]

SENATOR KARPSEK: I felt a lot of pain, in fact. (Laughter) Any other questions for Ms. Price? Seeing none, do we have any proponents for her appointment? Any opponents? Anyone neutral? Seeing none, thank you for being here today. [CONFIRMATION]

PAM PRICE: Thank you. [CONFIRMATION]

SENATOR KARPSEK: And that will end the hearings for the appointments. Next we'll have Senator Haar. Senator Haar will be telling us about LB789 whenever you are ready. And welcome to the General Affairs Committee, Senator. [CONFIRMATION]

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LB789]

SENATOR HAAR: (Exhibit 1) Chairman Karpisek and members of the committee, first of all, I'm glad there are no lights, and secondly, the two committees I'm on don't allow laughter, so I'm enjoying this. Not really. Okay, I'd like you to take this sheet of paper that is being passed out and I'll go through this real quickly just to set the stage for this bill. These are incidents from 2010 where people were electrocuted in an ag environment. August 2009, a bin jack was improperly wired. It could have been prevented with inspection and required GFCI receptacles. June 2010, trying to unplug a faulty grain auger which did not have the proper disconnect installed. Preventable. The next one probably couldn't have been prevented by inspection. The following one, in August, a center pivot. Preventable with inspection. The next one again probably would not have been preventable. August 2010, a farm laborer electrocuted by a faulty trouble cord. Preventable with inspection and required GFCI. Another one in August preventable with an inspection. In September 2010, a satellite TV installer was electrocuted. And then we found out that just recently, last week, there was an accident in Lodgepole, and it was a miracle the man was not killed, and he had only been on the job for two weeks. But again it was a matter of things not being properly installed. What LB789 would do, would be to add a requirement that all new irrigation and grain handling equipment be inspected under the State Electrical Act. It does not affect any currently installed systems. We've had a lot of calls on this. Routine maintenance would not require an inspection; rewiring would require an inspection. And I brought this for the State Electrical Board because, of course, their concern and our concern should be for these preventable electrocutions. And Randy Anderson from the State Electrical Board will be following me and he's the man that will answer the detailed questions for you. And I forgot to spell my name at the beginning. K-e-n H-a-a-r. Two a's. Okay. [LB789]

SENATOR KARPISEK: Thank you, Senator Haar. Do we have any questions for Senator Haar? These electrocutions...maybe this is a really dumb question, but did these end up in death? [LB789]

SENATOR HAAR: Yes. [LB789]

SENATOR KARPISEK: These were all deaths. [LB789]

SENATOR MCGILL: All of them? [LB789]

SENATOR HAAR: All of those, yeah, on the sheet I handed out. Again the one last week, the man was not killed, who had been on the job for only two weeks. But these are all deaths, yes. [LB789]

SENATOR KARPISEK: Senator Coash. [LB789]

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SENATOR COASH: Thank you, Chairman. And were these in Nebraska or were these... [LB789]

SENATOR HAAR: Yes, these are just Nebraska. [LB789]

SENATOR COASH: So these were deaths in the state. [LB789]

SENATOR HAAR: Just Nebraska. Um-hum. And, of course, that's why we're seeing the concern of the State Electrical Board, because these are all Nebraska incidents. And out of the two, four, six, eight electrocutions, six of them could have been prevented if things had been done properly and there was inspection of the system. Yes. [LB789]

SENATOR COASH: I'll ask one more question and this is more about irrigation equipment. I mean most of the irrigation equipment I'm familiar with is, you know, gas powered, but there's electrical components to it. Sometimes they are electric powered. Does this apply to both, whether or not the irrigation is powered by gas versus electricity? [LB789]

SENATOR HAAR: So pure electric? [LB789]

SENATOR COASH: Yeah. [LB789]

SENATOR HAAR: Well, even, you know, the gas-powered ones would have electric motors to drive the wheels. [LB789]

SENATOR COASH: Right. [LB789]

SENATOR HAAR: So, yeah, this would apply to... [LB789]

SENATOR COASH: So this applies to both. [LB789]

SENATOR HAAR: To everything. [LB789]

SENATOR COASH: Okay. Thank you. [LB789]

SENATOR KARPISEK: Thank you, Senator Coash. Senator Bloomfield. [LB789]

SENATOR BLOOMFIELD: Thank you. There's a couple of these here that I see tried to repair a sump pump with a faulty cord or something to that effect. If after the equipment is installed and inspected and nobody maintains it, sooner or later that cord is going to get pinched or bit somewhere and you're going to be back. [LB789]

SENATOR HAAR: Yeah, I mean common sense especially in an industrial or an

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agricultural setting would require that you maintain things on a regular basis, but. I'm not aware of other situations, and this will be a good question, though, for Mr. Anderson, whether it requires repeated inspection by the state board or whether that's probably just up to the person maintaining the system. [LB789]

SENATOR BLOOMFIELD: And I have another question on the fee involved and maybe I should ask that to somebody later on. [LB789]

SENATOR HAAR: Yes, I would appreciate that. [LB789]

SENATOR BLOOMFIELD: Okay. Thank you. [LB789]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Senator Krist. [LB789]

SENATOR KRIST: Thank you, Chair. So the codes being divided the way they are, does that mean that we have to go to the Urban Affairs to talk about the plumbing in terms of the electrical code and how it applies, because there's water flowing through...? I'm kidding. You know what I'm talking about. [LB789]

SENATOR HAAR: I do know the answer to that question. (Laughter) [LB789]

SENATOR KARPISEK: Thank you, Senator Krist. And Senator McGill. [LB789]

SENATOR MCGILL: Do you know if there's any electrical training that's required of any...I see that one of the cases that wouldn't have been prevented, it was raising the thing into the lines. And I know when I was a TV reporter, we all had to take a training because of the live truck mast and how you can get fried if you're not looking for power lines. I'm just wondering if, you know, if there's any required training for the use of that equipment dealing with power lines and stuff? [LB789]

SENATOR HAAR: No, I'm not aware. I would expect that would be a common sense depending on the occupation. And, for example, I would imagine pilots are taught not to fly into high-voltage lines and things like that. [LB789]

SENATOR MCGILL: Well, I mean it's like we had a little...I forget what the little saying was, but it's always "look up and live," because it is easy to, you know, park your car or park your whatever and not think about looking up to see where those power lines are. And I know in our industry we were required to watch this video because of that hazard. So, I don't know, I just throw that out there. [LB789]

SENATOR HAAR: Great. [LB789]

SENATOR KARPISEK: Any other questions? Senator Brasch. [LB789]

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SENATOR BRASCH: Yes, I do have one. Thank you, Chairman, and thank you, Senator Haar. When I'm seeing the grain bin worker, that's...or grain bin being built, that's typically quite an undertaking from a cement slab, and it's not a lone farmer with a wrench out there, I believe, probably in all cases. So I believe an electrician is already a part of many of these processes, whether there's a certificate or not. And we farm and we are very familiar with our electrician and I'm also the bookkeeper so I write quite a few checks to the...so I'm just wondering if some of this is just good practices and these isolated cases that perhaps this bin company that sell bins had an unqualified or untrained worker, as Senator McGill said, that she had to take specialized training in what to do. If it's an ongoing increasing problem, do we see a greater trend towards farm accidents with electricity compared to another time? But, you know, every one of these I think would have been...an electrician would have been part of the process. [LB789]

SENATOR HAAR: You know, and I can't answer that, but Mr. Anderson certainly can when he comes to...and that's a good question. [LB789]

SENATOR BRASCH: All right, thank you. [LB789]

SENATOR HAAR: But many of us are...do a little electrical work here and there, you know. I built my house and I did my electrical work, but that had to be inspected by a state inspector and so on, so. [LB789]

SENATOR KARPISEK: Thank you, Senator Brasch. Any other questions? Seeing none, do you... [LB789]

SENATOR HAAR: Thank you. I'll waive. [LB789]

SENATOR KARPISEK: Okay. Do we have proponents for LB7...sorry, LB978. Welcome. Oh, I'm sorry. Wrong bill number. LB789. Right numbers, just wrong. [LB789]

RANDY ANDERSON: (Exhibit 2) LB789. Senator Karpisek, members of the committee. I'm Randy Anderson, R-a-n-d-y A-n-d-e-r-s-o-n. I'm going to zoom through this quickly. Senator Haar already touched on some of it, and...but basically the State Electrical Board is in charge of electrical safety, licensing, and permitting in the state. I'm going to leave off...I have a section in yours that gives each name to kind of let you know that it wasn't just a bill. There were names that died behind it. The change to 81-2124(1) to add grain handling equipment in the areas and require state inspection, some utilities across the country already require this now. If it's 480-volt grain bins, they have us come out. If it's center pivot irrigation, they have us come out. That would not pertain to diesel engines at this time. It would be to anything the power company is involved in. Of the seven electrocutions I refer to, four were grain handling-type equipment, two were

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irrigation equipment. And the Electrical Board is aware that no law can stop every electrocution from happening. However, for public safety, we can't sit back and do nothing when in one year we have this many accidents. And if you look at the dates, August was...I mean, in two weeks we had three deaths, and then two weeks later we had another one, and we believe it was due to the wet weather because it was so wet. Things that wouldn't have killed you before, that might have been a shock, were death in these wet conditions. I've been contacted that to change this bill would prevent companies and individuals from installing electrical wiring in the state. That is not true. This bill does not change the fact that state statute 81-2108 states no person shall, for another, wire or install electrical wiring without the proper license. This bill does not change 81-2121(5) which does not require the owner of farm property to be unlicensed while installing electrical wiring on said property, and basically that is the farmer himself. That's not people he hires. But there's nothing in the law that prevents any one of you from wiring your own farm and your own farm equipment. This bill does not change 81-2121(7) which allows pump installers to hook up their pump to the first controller. And that was done a couple cycles ago, as you recall, when anyone credentialed through the Water Wells Standards Practice Act, if they're licensed through that, the State Electrical Board does not require them to have an electrical license to hook up their piece of equipment, so they could wire it to the pump controller. The bill does not change 81-2125(2) which exempts routine maintenance. And by routine, I mean if a motor burns up, a fan goes bad, if you don't physically have to pull wires through a conduit or add wiring, there wouldn't be...we don't have enough people to be out there every time a motor is changed or a light bulb burns out. This bill does require permits to be filed and inspections performed on irrigation and grain handling equipment. To obtain an electrical permit, the person would have to be licensed and insured or fall either under (5) of 81-2121, be the owner, or (7) and be the pump installer or the guy that, like I say, a farm well or an irrigation well. Nothing in this bill prevents irrigation companies from erecting a center pivot irrigation machine, but it would require the connection from that machine to the utility power to be installed by a licensed electrician and inspected. So in other words, they can build the machine, put everything together, build their center tower, but now leave it to the electricians to get that hooked to the power company so we ensure proper grounding and conductor size. Nothing in this bill prevents a credentialed pump installer, like I said before, from wiring up his own equipment, but we must keep in mind it's already against state statute to make utility connections without the proper license. Unfortunately, right now, as we're going around, we have prosecuted a few people, taken them to court for it. But unless somebody complains or something happens, we're not there to do it. Senator Haar touched on the accident on January 31, last Tuesday. This young man got burned and would have been killed any other year but this year. He was trying to push conductors as big as my thumb into a 6x6 junction. Code requires 12x12. He tested them but he had only been working there two weeks. So he touched the side of the box, touched the conductors. Well, the box wasn't grounded. Then he attempted to shove them in and it burnt his hand severely. Luckily, his hands were against the metal. All the current is going through his hands. This goes

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across your heart, like right hand to left foot, left hand to right foot, that's death. The scary thing here was you've worked for the company two weeks, you're not a licensed electrical company, you're a well-installing company, and we're sending this guy out here to make the 480-volt connections that you and I are going to touch all the rest of the way through? It's kind of a scary thought. And we wonder how many cases are like that that we never hear about. The person got burned, they got hurt. I know I had a box blow up on me once. I never called anybody. I mean, didn't have to go to the hospital, didn't have to do anything. You're embarrassed that you did it so you just don't say anything to anybody. I've been asked if we have the manpower to handle these inspections. The Electrical Division is cash-funded and we are not looking at this time of adding any inspectors. With good planning, inspections can be made on time. Our typical deal is somebody calls Monday morning at 8 a.m. and wants you there at 8:05, and that's not going to happen. We request five days. We sometimes do it immediately, it depends on where we are. But if everybody plans and calls and you get on the guy's schedule, you don't have to wait. But it's kind of like I tell people, we're not Houdini. We don't know when somebody is waiting. You know, if you need an inspection, it's probably a good idea to call somebody so they're ready to come when you're ready. We're hoping that after phone calls telling us that there's going to be more of these than what we think, then we're hoping if there's that many going on, there would be funding there to fund more inspectors if needed. As a lot of you know, the Electrical Board has never, as long as I've been here for 21 years, came and asked to spend money that we didn't already have. If we didn't have the money, we don't put people on because we don't want to lay somebody off, so. Mr. Chairman, members of the committee, thank you for hearing me. [LB789]

SENATOR KARPISEK: Thank you. Senator Coash. [LB789]

SENATOR COASH: Thank you, Chairman. Do you ever get requests to voluntarily...I mean it's not required by law now, but do your inspectors ever go out because somebody has asked them to? [LB789]

RANDY ANDERSON: Yes. We have an owner request on our permits, and an owner can request. In fact, we've had...we've got one I'm going on with a guy tomorrow where the owner doesn't agree with what a city jurisdiction told him, and we accepted an owner request to come and inspect. Although we warn everybody, when you ask for an owner request, remember, that now becomes a legal document and you have to fix anything that we look at after if we find problems, you know. [LB789]

SENATOR COASH: So with regard to the irrigation systems and the grain systems, do you find yourself sending inspectors out there pretty frequently to do that, once in a while? [LB789]

RANDY ANDERSON: On the power companies that require it. We have several power

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companies across the state that won't energize an irrigation system until they get an inspection from us. [LB789]

SENATOR COASH: Okay. [LB789]

RANDY ANDERSON: And one, Cuming County Public Power, has taken that to 480-volt grain facilities. They feel that if you're a big enough grain facility that you're dealing with 480 volts, that it ought to be getting inspected before they energize it. [LB789]

SENATOR COASH: So you are going out and inspecting on some of these because mainly it's either the power companies requiring the farmer to do it or they're asking anyway. [LB789]

RANDY ANDERSON: Right. On irrigation it would be rare that they would ask for it, but we have had a few. [LB789]

SENATOR COASH: Okay. Thank you. [LB789]

SENATOR KARPISEK: Thank you, Senator Coash. Senator Bloomfield. [LB789]

SENATOR BLOOMFIELD: Thank you, Mr. Chairman. We are, in fact, putting up a grain bin this spring. We have already contracted with a licensed electrician to hook everything up. When he is done, what is it going to cost me to have you come out and inspect that and see that he did it right? [LB789]

RANDY ANDERSON: It depends on the size of the system, Senator. It would be a 200-amp service, which is pretty typical for a normal farm. You know, you get into some that are 1,000. But a 200 is \$35, and \$5 per breaker that you use in the panel, not that's in the panel. So if you use 10 circuits, you'd be looking at \$85. If you had 20, you'd be looking at \$135. [LB789]

SENATOR BLOOMFIELD: Is there a mileage charge then too? [LB789]

RANDY ANDERSON: No. No. It could come later if we get a lot...you know, now we do a lot of city and just rural homes. I suppose if you got so many that you realize you're spending your whole day driving around the county, mileage could be there. But usually we try to schedule them, you know. If we're in a county or in an area, we try to do everything that's in that area. [LB789]

SENATOR BLOOMFIELD: Okay. Thank you. [LB789]

SENATOR KARPISEK: Thank you. Senator Brasch. [LB789]

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SENATOR BRASCH: You had mentioned, I thought I heard you say you don't have a lot of inspectors. [LB789]

RANDY ANDERSON: We have 15 across the state. [LB789]

SENATOR BRASCH: Fifteen. And they are statewide? [LB789]

RANDY ANDERSON: Yes. [LB789]

SENATOR BRASCH: So what's the farthest someone would have...are you well-covered in west... [LB789]

RANDY ANDERSON: Your inspector would come out of Wisner... [LB789]

SENATOR BRASCH: Okay. [LB789]

RANDY ANDERSON: ...for that area. The eastern part of the state where the population is, is heavy. Then when you go north there's one in Valentine, one by Scottsbluff, one in Brady, outside North Bend. We're placing one in McCook. He's in Oxford right now but were trying to get him closer to the center. We have some... [LB789]

SENATOR BRASCH: So how many are in Lincoln and Omaha? [LB789]

RANDY ANDERSON: The cities of Lincoln and Omaha do their own inspection. We only do the schools and colleges that are state-owned. So Omaha registers their inspectors with us and we make sure they are licensed and certified, same as Lincoln, Kearney, Grand Island, South Sioux City, Scottsbluff. In fact, Scotts Bluff County has their own program. So anywhere there isn't a city or a county program, we do the inspections. If there is a city program, we do anything state-owned. [LB789]

SENATOR BRASCH: So once a request is made, is it next-day service or a week ahead, or what's the time line? [LB789]

RANDY ANDERSON: The law requires five days. Usually with planning it wouldn't take that long. Like if I was going to start roughing a job in today, say, if I would call the inspector and say, I started Monday morning, Thursday I'm going to be ready; he could be there pretty close to that time. Most of the complaints I get in my office are the calls that come in at 8 in the morning saying, the general contractor is after me because I need it today. And we have instated an on-line request now. All the inspectors are carrying smartphones. Nothing is worse than getting back to your office and then you realize there's a call from right where you just were. So now they're requesting on-line, and there will be an automatic e-mail sent to their phone so if they're in the area they

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can see it and get it. And we've also switched to allowing flextime. If you're in an area and you can work two more hours tonight and get it done, we allow them to take it off another day during the week to try to work an area while you're there. [LB789]

SENATOR BRASCH: Very good. Thank you, Mr. Anderson. I have no other questions. [LB789]

SENATOR KARPISEK: Thank you, Senator Brasch. Senator Krist. [LB789]

SENATOR KRIST: That moving to technology, you need to talk to the Department of Health and Human Services. [LB789]

SENATOR MCGILL: So efficient. [LB789]

SENATOR KRIST: Yeah, absolutely. I applaud you for doing that. I mean that just makes way too much sense to be government. (Laughter) [LB789]

RANDY ANDERSON: I got told that one day. They said: That's common sense; what are you doing working here? We're right now working on licensing because with the chance that we might have to move to the Executive Building, we have a lot of foot traffic and there's not going to be parking, so we're in the process right now to make it so the apprentice license, anyway, you can just go on-line and use your credit card and get it and we'll mail it to you, rather than them having to come to the office. [LB789]

SENATOR KRIST: Good work. Thank you. [LB789]

SENATOR KARPISEK: Thank you, Senator Krist. Any other questions? Seeing none, thank you. [LB789]

RANDY ANDERSON: Thank you. [LB789]

SENATOR KARPISEK: Do we have any other proponents? Do we have any opponents to LB789? I do want to mention also if senators are leaving and coming back, we have other committees going on and they are presenting in other hearings too. Welcome. [LB789]

CRAIG HEAD: Good afternoon, Senator Karpisek, members of the committee. My name is Craig Head. I'm the state director of government relations for the Nebraska Farm Bureau Federation, and it's spelled C-r-a-i-g, and the last name is H-e-a-d, and I'm here today on behalf of Farm Bureau in opposition to LB789. I do want to start out by saying that we too are very concerned about safety on the farm of our members who are working day to day on their farms and ranches, and our opposition to the bill should not be construed in any way to indicate otherwise. Having said that, though, we have

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never had the chance to visit with our members about the issues that are presented in LB789. This bill actually represents the first time that we've heard any concerns or any interest in trying to include irrigation and grain handling equipment under the State Electrical Act requirements. Because of that, we don't have any policy on the topic, and furthermore, we have never had a chance to see whether or not this approach would actually improve safety from the perspective of our members, more importantly, the scope of how many of our members would be affected, how many times they would be impacted by the new permit requirements. And I would point out that the fiscal note raises that same question in terms of unsure about the occurrences that would take place. For that and those reasons, we would ask the committee to consider holding this bill and give us a chance to visit with our members about the issue, to gauge in their mind whether or not this bill is the right approach to improve safety on the farm, whether or not it's something that we can move forward with. And if that's the case, there is an issue, then we could possibly engage in dialogue with the State Electrical Board to determine the best way to address it. I would just simply point out that we have found, a lot of times in agriculture, educational efforts are very effective in working with our members to help address issues, and this might be a case where that would be an opportunity to do so. So with that, I would conclude my testimony and would be glad to try and answer any questions that you might have. [LB789]

SENATOR KARPISEK: Thank you, Mr. Head. Any questions? Is a little bit of your hesitancy to...are you worried about the timing, if there will be enough inspectors, because when it's time to go, it's time to go? [LB789]

CRAIG HEAD: I think that's a fundamental question that we would first ask our members to make sure. Again, not knowing the scope of how many inspections might take place in a year, I have no idea how many irrigation installations, how many grain handling installations would occur in the time frame...in a year's time frame. [LB789]

SENATOR KARPISEK: Thank you. Senator Krist. [LB789]

SENATOR KRIST: I think your request is a legitimate one, but I would ask you to ask the question in context of the number of deaths that have occurred and not just in terms of the inconvenience or the timing involved. I think that should weigh out to be probably one of the more significant parts of the question. I've asked the question a number of ways, being married for 30 years, and I know how to get the right answer. So in terms of objectivity, I think this is...this, to me, is the Electrical Board saying, wow, we've got a problem and it involves safety, so. But again, a legitimate request and something we should consider. [LB789]

CRAIG HEAD: Well, and I appreciate your comments, because we do...the reason I mention it is we have a lot of conversations about a lot of different issues in our organization, and safety does come up, particularly when you talk about transportation

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rules and regulations, running down the road in different vehicles, safety is a consideration. So I don't want to leave the impression that our members don't think about those issues, because they certainly do when we look at the different requirements. But I appreciate what you're saying. And to that point, I did visit with Mr. Anderson earlier this week just to try and get a scope or an idea of what was coming or what the intention was behind the bill, because again this is the first time that we've heard any of the concerns. I don't know what a ten-year track record of deaths would be in the case. I mean any of them are certainly...it's tragic, no question about it, but I think just to get an idea, I don't know what it was, the ten-year track record would be on something like this. So we just want an opportunity to visit with them a little bit more and see if this is a good solution or not. [LB789]

SENATOR KRIST: Thank you, Chair. [LB789]

SENATOR KARPISEK: Thank you, Senator Krist. Senator Bloomfield. [LB789]

SENATOR BLOOMFIELD: Thank you, Mr. Chairman. Senator (sic) Head, I am guessing here mostly with...wouldn't part of your problem, too, be we're from the government and we're here to help? [LB789]

CRAIG HEAD: Well, that always weighs in, I won't dismiss that. And to your point, there is a little bit of regulatory fatigue I think within agriculture, right now, to your point. We just came off a fresh discussion about child labor laws on agriculture, which I know were written with the best intentions to try and protect children on the farm. But the reality is, the way those were written at the federal level would have prevented children from working on their own 4-H projects. And so we've gotten the federal government to slow down a little bit and try and have that conversation with them as well. So this is one of those things where I think we just want to have an opportunity to make sure we're taking the appropriate steps moving forward. [LB789]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Any other questions? Seeing none, thank you. [LB789]

CRAIG HEAD: Yes, sir. Appreciate the chance to testify today. [LB789]

SENATOR KARPISEK: Is there any other opponents? Welcome. [LB789]

MICK MINES: Mr. Chairman, members of the committee, my name is Mick Mines, M-i-c-k M-i-n-e-s. For the record, I'm the registered lobbyist for the Nebraska Corn Growers Association, and we are...I'm testifying in opposition, however it's a soft opposition. You know, there are just too many questions from our members, our 24,000 members, that to understand exactly what the impact is, and I'm echoing a lot of things Mr. Head said. We just don't know. We don't know what the impact is going to be, what

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the cost is going to be to our members. Certainly we're very concerned about the health and welfare of folks on the farm. But we, too, would like to see the bill held so that we can better understand it; we can get input from our members. While I know it's very well-intentioned and I understand that we do have some issues recently, we just think it...we need to slow down perhaps and take a look at what the real effect is, and maybe it will be the same solution, but we're just concerned that it's moving a bit too fast for our membership. [LB789]

SENATOR KARPISEK: Thank you, Senator Mines. Any questions? Seeing none, thank you. [LB789]

MICK MINES: Thank you. [LB789]

SENATOR KARPISEK: Any other opponents? Do we have anyone neutral? [LB789]

DON WESELY: Mr. Chairman and members of the General Affairs Committee, my name is Don Wesely, representing the Center Pivot Manufacturers Association, D-o-n W-e-s-e-l-y. Rather than a soft opposition we have a hard neutral, so. (Laughter) We pretty well echo what was just said. The center pivot manufacturers' irrigation equipment is part of the focus of this, and we had not heard of this problem being significant to the point that this legislation was introduced. We want to work with the Electrical Board. We want to make sure people are safe. We're just not sure, again as we install center pivots in the spring, when people need them right away, you know, waiting for five days; we can make adjustments obviously on how that would be handled. But the concern is we'd like to hear more about this and what our options are and try and work something out. So we're a hard neutral on this. [LB789]

SENATOR KARPISEK: Thank you, Senator, Mayor Wesely. (Laughter) Do we have any questions? Seeing none, thank you. [LB789]

DON WESELY: Thank you. [LB789]

SENATOR KARPISEK: Any other neutral testimony? Welcome. [LB789]

TOM NOLLER: (Exhibit 3) Hello. Mr. Chairman and members of the committee, I'm Tom Noller. I'm the owner/operator of Noller Electric out of Pleasanton, Nebraska. [LB789]

SENATOR KARPISEK: Can you spell that for us, please? [LB789]

TOM NOLLER: Yes. Tom, T-o-m, Noller, N-o-l-l-e-r. [LB789]

SENATOR KARPISEK: Thank you. [LB789]

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TOM NOLLER: Okay. I kind of have mixed feelings on this. I'd really like to see the inspections come about. It would definitely even the playing field for those of us who feel the code is a necessary requirement for our installations. Unfortunately, there's quite a few people out there that do not believe just because they are agricultural, or whatever else, they do not fall under the National Electrical Code. It's also going to open a can of worms when we get into this. As you can see, I listed some questions, and I guess these are open. Maybe...I don't know whether I should be asking you or you should be asking me these, but I'd really like to know how the inspectors are going to handle these existing installations that have never been wired to code, never were, and in no way they would ever make it now. How do I tie into those installations again when I put in the new pin? Okay. Why is the grain auger receptacle required to be inspected but the welder receptacle right next to it isn't? It seems to be a little foolish thing there. How can wiring a 30-horsepower 480-volt fan not be important as the receptacle for a sweep auger that might be operating at 120 volts or 230? A 20-horsepower pump used to wash out trucks, it's not for irrigation and it's not for moving grain, so there's no inspection would be required on this regulation. Fuel pumps, why don't we have fuel pumps? If you guys have ever been to a farm, we really ought to look at some of those fuel pumps. Bad. And then we can go on to what about the private riding and rodeo arenas that I've seen that some of these smaller counties would really give their left arm for? They're gorgeous. We know that LB789 is aimed at the farm or agricultural installations, and I've been struggling for years to make my ag customers understand that exempt installations are not exempt from the State Electrical Act just because an inspection is not required. Unlicensed, untrained people work on these installations every day. I have no control over them nor does the state. They don't know who's doing it. There is no reason we should just pick grain handling or irrigation. I'd like to say I'd do it all or just leave it alone. But unfortunately, leaving it alone will also give the nod to just ignoring the problem we have right now. That's about all I have. [LB789]

SENATOR KARPISEK: Thank you, Mr. Noller. Senator Krist. [LB789]

SENATOR KRIST: I want you to help me understand something when you talk about tying in, just for the record. You're talking about new installation and new power requirements, and the only place to get power is through potentially a box or a circuit that has been installed that is not in accordance with. So does that need to...go ahead. I'm sorry. [LB789]

TOM NOLLER: That's part of it as well. But let's say typically I'm going to install a new fan that has a 30-horsepower motor on it and it may be a three phase, okay? I need a new service. It has a grain auger that we have to tie in with the other equipment throughout the farm. If that other equipment has never been inspected, isn't properly installed, how do I tie into it? [LB789]

SENATOR KRIST: Okay. Very good. Thank you, sir. [LB789]

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SENATOR KARPISEK: Thank you, Senator Krist. Any other questions? Seeing none, thank you. [LB789]

TOM NOLLER: Thank you. [LB789]

SENATOR KARPISEK: Any other neutral testimony? Seeing none, Senator Haar to close. [LB789]

SENATOR HAAR: Again, thank you very much. Just to reiterate, this is all new irrigation and grain handling equipment be inspected, it's not existing. And I was very impressed by Mr. Anderson and the way they treat their scheduling and so on, and I think everybody has agreed that this safety issue is an important one. What...as I was thinking about this and listening to it, what makes electrical inspection so important is what you do can affect me. And so if you wired your own bin, or whatever, and then I come out to work, if I see a receptacle that's got a ground on it, the three plugs, usually I think I should be able to assume that it works. And so it sounds like maybe there needs to be a little bit of time to talk to membership. But again this is an area where what you do can affect me. And so I think that we need to have this in place it sounds like to me. [LB789]

SENATOR KARPISEK: Thank you, Senator Haar. Any questions? Seeing none, thank you. [LB789]

SENATOR HAAR: Thanks so much. [LB789]

SENATOR KARPISEK: And that will end the hearing on LB789. [LB789]

SENATOR KRIST: LB978? [LB978]

SENATOR KARPISEK: Yes. [LB978]

SENATOR KRIST: Senator Karpisek, you will please open on LB978 at your convenience. [LB978]

SENATOR KARPISEK: Thank you, Senator Krist, members of the General Affairs Committee. For the record, my name is Russ Karpisek, K-a-r-p-i-s-e-k. I represent the 32nd Legislative District and live in Wilber, Nebraska, W-i-l-b-e-r. I try to get that in every time I can. LB978...I can't get my numbers today. The intent is to address the Liquor Control Commission's concern that alcohol is being sold as a loss leader to entice shoppers into the licensed establishment. This bill only applies to sales of alcohol for off-premises consumption. This practice makes it difficult for smaller businesses or specialty shops to compete with the larger stores with a more diverse product selection.

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The public policy concern regarding alcohol consumption, especially when it comes to minors, is that businesses should choose a product other than alcohol to advertise as its loss leader. Hobie Rupe, executive director for the Liquor Control Commission, will be testifying, and he can provide you with additional information and answers with any questions you may have. This bill actually came to me from a constituent that owns a liquor store. And a Walmart came in not that long ago and, of course, raises a lot of heck with any downtown business. But they can lower their cost or their price, their retail price on the alcohol to get people in, and then make it up on something else. So, of course, people will go there and buy the liquor cheaper and go past his store. I just think with the way that alcohol, the product that it is, is that we should monitor this. We do it with tobacco right now. And if there's any questions, I'd be glad to try to answer them. [LB978]

SENATOR KRIST: Any questions for Senator Karpisek? Senator Larson. [LB978]

SENATOR LARSON: It's my understanding that the Walmarts of the world, I mean they buy alcohol by the truckload, whereas the local guys buy it by the caseload or whatever else. So essentially, in talking to wholesalers, I mean, they can buy it for less than your little guy too. Or is that not the case? [LB978]

SENATOR KARPISEK: You know, hopefully someone behind me will be able to talk more about that. I've heard both ways. [LB978]

SENATOR LARSON: Okay. I didn't know so I figured I'd ask. [LB978]

SENATOR KARPISEK: It's a great question. [LB978]

SENATOR KRIST: Thank you, Senator Larson. Any other questions for Senator Karpisek? Senator, I assume you'll be here for closing. [LB978]

SENATOR KARPISEK: I will stick around. [LB978]

SENATOR KRIST: Okay. Proponents. People who want to talk in favor of LB978. Good afternoon, Mr. Rupe. [LB978]

HOBERT RUPE: Good afternoon. Thank you. My name is Hobie Rupe, H-o-b-i-e R-u-p-e. I'm the executive director of the Nebraska Liquor Control Commission, and I'm glad I'm not the only one that was confused. You have three different bills using three different numbers in a different order as to which one we're dealing with. (Laugh) This bill is somewhat serendipitous. I got a call from Senator Karpisek, you know, looking into a concern about that. At the same time, the commission was receiving a lot of complaints. And just to give you an idea of how it works and hopefully to address Senator Larson's question, is the commission's position and has been for about 20-plus

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years now from an Attorney General's Opinion is that the...a wholesaler must offer to all its potential customers in his territory, for instance, let's use beer, the same price per case, and they can offer the same quantity discount. They can't pick and choose who's going to get it. If they're going to do a quantity discount, everybody in that location has to have the same opportunity to get it or not. Otherwise, it's considered a thing of value. If they're giving certain locations better, it's a thing of value, which is in violation of the three-tiered system. Honestly, right now, you don't see a lot of quantity discounts anymore. The main reason for that actually is because each individual license is considered separate. So Walmart can't just buy it and spread that all amongst all the Walmarts in the state of Nebraska. It's each individual store must be considered separate at that location. The other reason why you're not seeing a whole lot of quantity discounts anymore is because, if you've been into a newer constructed facility, their internal warehouse space is small compared to what it used to be. You know, almost everybody is operating under a, you know, a truck shows up, it's almost going out to the shelf. You're not having a lot of storage so you're not seeing as many people take advantage of the quantity discounts which are available. We were receiving a lot of complaints. Traditionally, retail licensees had not been using a loss leader as it pertains to alcohol. Just to bring up to, what is a loss leader? A loss leader is, okay, we're going to go ahead and lose money on this one product just so we can have it to get you into the store, and then we're going to sell you other things to make up our profit margin on that other spec. We received a lot of complaints last summer from smaller retailers primarily saying, wait a minute, hey, I think, you know...and they were alleging that they thought that there was a violation that somebody was getting a better price point than they were, so they thought there were violation of tiers. We did the investigation and found out that, yes, they are selling the beer, the wholesalers--and let's just use a number--at \$13.99 a case for everybody. But some people were selling it for \$9.99 and \$10.99, whereas...so they were actually losing a dollar or two dollars on every single case they were selling. So they weren't getting a special deal from the wholesaler; they just were choosing to sell it at a below cost. And that's sort of raised some red flags with us. Alcohol is a product which is different than any other product. It is regulated. And what we were really concerned, we were seeing last summer especially, was sort of a drive to the bottom where people were continuing to undercut each other on prices on alcohol, and we thought that posed some significant health risks. You know, you're going to be buying more alcohol than you normally would be prepared to buy perhaps. It's enticing. You know, kids, unfortunately will perhaps purchase more because, you know, when you get five kids together and they all throw in \$10, they're getting more bang for their buck because, you know, by having the one adult go in and buy it for it. So it raised concerns for us. Like I say, it sort of originated within the commission internally as a complaint because they thought that, for instance, let's use Walmart, because it was brought up that they may be getting a better deal on the price per case point. They weren't. They were paying exactly the same price. They just were choosing to lose money on every sale of that beer. So we would strongly support Senator Karpisek's initiative on this one. You'll notice this is not a minimum markup saying

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you've got to make money. This bill clearly says we're just not going to let you lose money. If you want to sell it at your cost, we're not going to be down on that trying to regulate you. It was just we were trying to get concerned about the, as we faulted, the drive towards the bottom. I'd be happy to answer any questions. [LB978]

SENATOR KRIST: Senator Coash. [LB978]

SENATOR COASH: Thank you. Hobie, I want to ask you some questions going back to the complaints you were receiving. Were the..it sounds to me like the majority of the complaints or maybe all of the complaints were mainly about market driven--Hey, I think my competitor is selling below what he should be--which caused you to investigate, and that wasn't the case. They were just choosing to lose money. Was that the...was that really the nature of all the complaints that you got? [LB978]

HOBERT RUPE: Yeah, that was the complaints we were receiving, and it was last summer. I can tell you, shockingly enough, a lot of it was right around going up to the July 4 holiday, you know, because when some of the prices were coming out we got calls from some retailers saying, how can they be selling this, you know? You know, they must have got a better price point, because if I sold at this price I'd be losing money. [LB978]

SENATOR COASH: Right. Did you...but none of those people came in and said, hey, I think this is unsafe; they're going to sell to more kids; you know, more access to young people. I mean I just want to get...be clear. The nature of the complaints that you're describing are really, hey, I think I'm not getting as good a deal as my competitor down the street. Which isn't the case. They just chose to put it into their business plan differently. [LB978]

HOBERT RUPE: Yeah. Well, that was their complaint, once we were made aware of the problem. Our concern is we're saying, you know, because we were seeing that, because traditionally we had not seen loss leaders being utilized for alcohol, you know, we're, you know...and when people started using Miller and Budweiser the same way as they had been using Coke and Pepsi for different loss leaders, we were getting concerned that you were trying...that this was a product which we should at least look at whether you wish...because, you know, as of right now there's nothing that says they can't do it. And that's one reason why we put it in our legislative letter. We received complaints. We thought we should bring it up to the Legislature and, you know, to have you review it and make you aware of the issues that we were seeing with it. [LB978]

SENATOR COASH: Okay. [LB978]

SENATOR KRIST: Senator Larson. [LB978]

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SENATOR LARSON: Thank you, Senator Krist. And, you know, I guess my...I have a fundamental problem with this. We have people obviously that are talking about Coke and Pepsi that causes obesity, or fried foods with cholesterol. I mean, when is enough? When is the...? You know, as we start to infringe on the free market more and more, is it...you know, is it okay to protect people from themselves on certain things like this? Why should a business not be able to charge what they want for any product in a system that we believe in? And I say that because you say alcohol is a different product. It's regulated and whatnot. But, I mean, there's people that want to start regulating these other products. And should they not be able to sell loss leader on Pepsi or Coke and cholesterol or, you know, fried foods and those things, I mean? So that's kind of my question, you know, why just this? Because everything is dangerous to society. [LB978]

HOBERT RUPE: Well, I would look at it, I believe Senator Karpisek already listed--this is not an unique product even though I believe there is minimum pricing on tobacco as well. The...and at the risk of going too historical on it, you've got to remember alcohol is the only product mentioned not once but twice in the U.S. Constitution. [LB978]

SENATOR LARSON: You're here a lot and we...(laugh). [LB978]

HOBERT RUPE: So the issue is, of course, and I'll be honest, you will see it: If alcohol is too cheap, there are generally inherent social problems that come along with it. You will see an increase in overconsumption. Overconsumption in a lot of ways it doesn't affect you individually. If you overconsume individually, the problem...you know, you're putting yourself at risk. The problem is generally the collateral damages to society outside of that. If you drink and drive, if you go into the hospital, if you have other problems. You know, I'm not going to go into fried foods or Pepsi. As you can tell I'm a fan of both. The problem that we've got is, you know, we had unrestricted free market in the first place...at one time, and that was called the saloon era. And that did...you know, the cheapness of alcohol and the fact that you had an integrated vertical tier where you had the price point of alcohol spread so low basically spawned what became the failed The Great Experiment, i.e., Prohibition. You know, Prohibition did not work because it was trying to go too far, so therefore, sort of the happy medium is a regulated industry. In other words, alcohol is a regulated industry in that regard. And I think we do a pretty good job. We try to look for the happy medium. We're trying...you know, there are concerns if you go too far, i.e., the problems that came out of Prohibition, and there are concerns if you go too far to the other side on free market energies, in which case we brought around the problems of the saloon era. [LB978]

SENATOR LARSON: Yeah. And I understand the regulations and how they have been a proponent of the three-tier system. But, you know, we look at other countries in, we'll say Europe, the Czech Republic, for example, it's complete vertical integration. It's cradle to grave. We've had these conversations before and I wouldn't say...and you bring up the social costs. I wouldn't say their social costs are any more than we have

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with alcohol. If you get...when you're trying to save by cheapening it, I mean beer is cheaper than water in the Czech Republic. And, you know, in terms of the social costs there, I wouldn't say it's overly great. So I just want to be very careful when you try to use that argument, because they are cradle to grave over there. [LB978]

HOBERT RUPE: I understand. [LB978]

SENATOR LARSON: And it's obviously a different culture there. [LB978]

HOBERT RUPE: Yeah. [LB978]

SENATOR KRIST: Thank you, Senator Larson. Senator Brasch. [LB978]

SENATOR BRASCH: Thank you, Senator Krist. And thank you, Hobie--Mr. Rupe. [LB978]

HOBERT RUPE: Hobie is fine. [LB978]

SENATOR BRASCH: Okay. Is this statewide or regional that you said you were getting calls? Is it happening some places more than others? [LB978]

HOBERT RUPE: If I remember correctly, most of the calls we had gotten were primarily in some of the bigger metro areas. In other words, you were seeing a price war going down. But this would apply statewide. You know, and honestly, the way we were able to find out to look into this was we went to the wholesalers. And I will say the wholesale tier was very amenable. We said, okay, we're getting these complaints. And the response was, yeah, so are we. Because, you know, they were getting even more complaints: Hey, how come you're selling to my competitor cheaper than I am? And so they were aware of it and so we were able to verify. You know, part of it is, you know...and like I say, our big concern was we didn't want...you know, we were seeing the beginnings of what we thought was a price war, of a drive to the bottom. And, you know, some of those factors have ameliorated. We'll see what happens this summer again, because it was mostly last summer we were getting most of these complaints. And my recollection, most of the complaints were from the two primary metropolitan markets. [LB978]

SENATOR BRASCH: And then my next question is, and this is...do places...okay, that's retail price wars. [LB978]

HOBERT RUPE: Yeah. [LB978]

SENATOR BRASCH: Now do bars...do they still have happy hours and things like that? [LB978]

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HOBERT RUPE: Yes. Yes. [LB978]

SENATOR BRASCH: So isn't that doing the same on a bar level where they have a ladies night or a happy hour or thrifty Thursday, I don't know what. [LB978]

HOBERT RUPE: You can't do a ladies night. [LB978]

SENATOR BRASCH: And I don't know what. In South Dakota you can, I've heard, so. Or so I've been told. [LB978]

HOBERT RUPE: Yeah, yeah. There was a federal law a long time ago about get...you know, that's why they call it lipstick nights. [LB978]

SENATOR BRASCH: Lipstick nights. [LB978]

HOBERT RUPE: Anybody who is wearing lipstick gets in. That way they don't look like they're being gender specific. [LB978]

SENATOR BRASCH: All right, but...gentlemen's night...gentlemen and ladies night. [LB978]

HOBERT RUPE: Yeah. You know, it is there. We weren't seeing as much of those. I will tell you right now that oftentimes we will see price wars start out amongst retail on premise consumptions. And almost invariably when you see that, you will see an increase in law enforcement calls. You will see more service to "intoxicateds." You'll see more fights break out amongst them. The primary difference there is you're supposedly...you've got a trained bartender or a trained wait staff there who's supposed to be monitoring the consumption. And even if the price is cheap, they should be trained well enough to intervene and stop that. In this case here, you know, the person might be stone sober when they're buying. You know, maybe they're coming in to buy a six-pack, but because of the price point for \$2 more they're buying a case, and then that's the problem that you're taking home. It is actually you're encouraging them to over...you know, overbuy. And I must say, I'm generally the biggest fan of the free market enterprise, you know, so, you know, somewhat it's, you know, as a regulator in this area it's somewhat a little dichotomous. But historically it's so different, and we were seeing it so widespread, and it was something that was so outside the historic norm. [LB978]

SENATOR BRASCH: I have no other questions. Thank you. [LB978]

SENATOR KRIST: Senator Bloomfield. [LB978]

SENATOR BLOOMFIELD: Thank you, Senator Krist. You said quantity discounts were

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rarely used anymore. What's rarely? [LB978]

HOBERT RUPE: I'd have to go back and look into it. You saw them used a lot more back when places were large places, so they're doing a lot more volume. But the key thing was, is those places also had large back rooms where they could store it or large refrigerated areas. More and more of your product now is...you know, if you look at a new supermarket, their back stockroom is a fraction of the size it would have been had it have been built 30 years ago, and so because of that, they're not able to take advantage of the quantity discounts the same way they used to be able to, because they can't store the product on the licensed premise. Because it's not how much you buy during a week; it's are you buying it today. If I buy 100 cases a day, I'm getting a different price. Well, you know, you might be able to buy 100, but if the quantity discount is at 500, you might not have the storage space within your own shop to store that much, so you can't avail yourself of the discount. [LB978]

SENATOR BLOOMFIELD: Super Walmart, to use one of Senator Karpisek's favorite people, they can order it by the semi-load and put it on the floor, where the little mom-and-pop liquor store cannot. [LB978]

HOBERT RUPE: Yeah. [LB978]

SENATOR BLOOMFIELD: So they can still take advantage of that (inaudible). [LB978]

HOBERT RUPE: They still think of that as the quantity discounts. Yeah. [LB978]

SENATOR BLOOMFIELD: Okay. [LB978]

HOBERT RUPE: But generally the quantity discount is going to be 25, 30 cents on a case, oftentimes. You know, and you'll be getting a better historically from the marketplace is if, you know, there's certain brands they'll be pushing, in which case they'll say all Bud Light, for example, at this price point, and offer to try to push that. Because usually what they're trying to do is tie into their also the national marketing, whatever is being pushed, you know, to take advantage from that. [LB978]

SENATOR BLOOMFIELD: Thank you. [LB978]

SENATOR KRIST: Hobie, just a request. Between legal counsel and you, it would be interesting for our exec on this particular item if you would show us the counterintuitive price index for tobacco, for example, for the distribution--wholesale and distribution. I know it well enough to speak to it, but I'm not going to take up the committee's time and I'm not the expert. The point is that there is a price point and that they control the market in terms of how it's incentivized in terms of a commodity. So that is exactly where you're going with this, I would believe. So if you could give us that for our exec, that would be

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wonderful--very helpful. [LB978]

HOBERT RUPE: I will get that as quick as I can, Senator. Thank you. [LB978]

SENATOR KRIST: Thank you very much. Senator Larson. [LB978]

SENATOR LARSON: One quick question. Hobie, and this is a hypothetical, you own liquor store Y and you buy some alcohol that nobody likes. It's just junk essentially, and you want to have a closeout sale. Essentially we're telling you, you can't discount it just to get it off your shelf either. [LB978]

HOBERT RUPE: Well, you can discount it but you just can't discount it below cost. [LB978]

SENATOR LARSON: Below cost. [LB978]

HOBERT RUPE: Yeah. [LB978]

SENATOR LARSON: And I see that being a problem because there are types of liquor out there that just won't sell, and they finally...somebody just says I need to sell it for...if I bought it for \$10, I need to sell it at \$5 just to recoup some of my money back. [LB978]

HOBERT RUPE: Yeah. You know, that would be perhaps one unintended consequence as it is drafted now. Generally, you know, and from a retail...and although it's not liquor retail because they couldn't do it, I am part owner of a small other retail. And even when we're trying to discount products, our goal is to at least get our money and our investment back. And so, you know, I mean, so what we might do is discount it so we're not making any profit or losing some of our operations, but we generally won't discount it below the price of the product. [LB978]

SENATOR LARSON: Generally. (Laugh) [LB978]

HOBERT RUPE: Well, I can't think of anything we did recently that was below that actually. [LB978]

SENATOR LARSON: I'm just saying that's an issue, I think, to a lot of small business...I mean there's...it's something that I think would need to be addressed in this bill, for sure. [LB978]

HOBERT RUPE: Okay. [LB978]

SENATOR KRIST: Thank you, sir. [LB978]

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HOBERT RUPE: Thank you very much. [LB978]

SENATOR KRIST: Any more questions? Next proponent for LB978. Seeing none, first opponent for LB978. Welcome. [LB978]

JIM OTTO: Senator Krist, members of the committee, my name is Jim Otto; that's J-i-m O-t-t-o. I am president of the Nebraska Retail Federation and I'm here today to express the concerns of the Nebraska Retail Federation in opposition to LB978. We're talking about no below-cost alcohol. I do want to...this is not the first time I've been here to testify concerned about selling things below cost. Several years ago there was an effort to limit below-cost gasoline. So now we're talking about below-cost alcohol. I would submit, and Mr. Rupe has said, that most of the complaints are not to do with selling to minors but to do with competition and people frustrated over the competition. And so that really is the issue here. I would just submit that loss leaders are a very valuable retail tool, and when we go down this road we're telling people what they can use as loss leaders. And as has already been mentioned, now if we're going to talk about no below-cost alcohol, do we then talk about no below-cost whole milk, because whole milk may not be as healthy for you as skim milk? And then as the next step, no below-cost bacon, because bacon has more fat in it than you should eat? I guess there's a...and we have had legislation, obesity legislation here in Nebraska when it came to, at least, fast foods. So that's not something that is just crazy to talk about. It's also complicated. What about rebates? We say no below-cost sales, but what about rebates? What if you get a rebate back for three bucks a case, does that mean that that was sold below cost? So I'm just suggesting. And just this weekend I did see that there was a significant rebate if you bought three cases of beer at a certain retailer. So I would also submit that we're primarily talking about beer and beer sold on weekends with major sporting events, because that's when a lot of beer is purchased. That's when people come in to buy all of the things for the people they're going to have to either come over and watch the game or go tailgate. And so what we are primarily talking about is the sale of beer. It does say below-cost alcohol, but I think most people are concerned about beer. And I would bet that nobody watches the price of the beer better than I do, and I haven't seen it all that cheap. So with that also it was mentioned that the cheaper beer is, the more maybe minors are apt to buy that much more. If you want to just buy an off-brand of beer and not buy the most prominent brands of beer, you can get 30-packs for less than you can buy maybe an 18-pack of some other. So if you're just talking about quantity of beer, people don't have to sell it below cost to sell a lot of beer for not a lot of money. So I really do think that we're talking about competition more than we are talking about sales to minors. We'd just encourage the committee to not advance the bill. Be glad to answer any questions if I could. [LB978]

SENATOR KRIST: Any questions? Thank you. Thank you for your testimony, Mr. Otto. Next opponent for LB978. Welcome. [LB978]

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KATHY SIEFKEN: Good afternoon, Senator Krist and members of the committee. My name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, representing the Nebraska Grocery Industry Association in opposition to LB978. Basically want to address some of the questions that have been asked. First of all, we don't believe that government should dictate what our loss leaders are. We think that as retailers we should be able to decide what the loss leader should be, whether it be soda pop or beer or what have you. This is an erosion of the free market system, and the free market should dictate what the pricing is. Tobacco--minimum markups was briefly brought up earlier. We have a minimum markup for tobacco, and the minute that passed everybody went to the minimum. And tobacco is not exactly a profitable item anymore because people are at the minimum and it has actually decreased the overall price in...because the margins aren't there anymore because it's such a competitive product. As far as it being a drive to the bottom, I talked to one of my local retailers, and they watch each other's prices, and they tell me that there are volume discounts, and the quantity buy that they have for Miller is \$14.40 if you buy less than a pallet, and it's \$16.40...or the other way around. Yeah, \$15.40 if you buy more than a pallet, and \$16.40 if you buy less than a pallet, because it's more expensive for the distributor to break up a pallet, which comes to 52 cents a case or \$1.52 a case if you're buying less. I'm not sure that \$1.52 a case is really a drive to the bottom. I'm not sure that people are going to stock up and overconsume for a buck and a half. So I'm not sure that that comment really holds water. One of the reasons...it's a competitive nature, but one of the other things our stores do is when we have damaged product or when we have a close-dated product, we put that stuff on sale and we try to get it out of the store so you can make room for product that does sell, products that we do make margin on. A lot of...or not a lot of but many of our members will sell below cost to their employees. If you get a couple of cases where they're damaged, we can no longer return those to the distributor according to the Liquor Control Commission. We have to do something with that product and we sure don't want to throw it in the dumpster. And as a reward to employees that are old enough to purchase, they do offer that damaged product or the close-dated product to their employees. And so with all of that, we would oppose this bill, and if you have any questions I'd be happy to answer. [LB978]

SENATOR KRIST: The question that I asked, or both legal counsel and Mr. Rupe in terms of tobacco, I'll mention one firm's name because I'm familiar with the way they manage their business. Farner-Bocken in the local area could pretty much control the tobacco sales within a large area because of their buying power. They're prohibited from doing that, as I understand it, given the tobacco law the way that it exists right now. So what you're saying is that that analogy that I want to get more data on, but the analogy that you're using is that that's not necessarily...that's not necessary for alcohol because...? I guess in my mind it protects the small business from the large business being able to stockpile and sell. And what we've done in the tobacco industry is we have leveled that playing field out. Is that not true? [LB978]

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KATHY SIEFKEN: You've leveled that playing field out, and now it is...it is starting to creep up below the minimum, but for many, many years the price of tobacco was the minimum markup. And people really didn't want tobacco to be a cheaper product, but it became cheaper than it otherwise would have been because you took the competition out of the marketplace. [LB978]

SENATOR KRIST: Okay. I understand now. [LB978]

KATHY SIEFKEN: That was the point that I was trying to make. And I believe that the same thing would probably happen with beer. Now eventually it might go up...or not just beer--alcohol. Now eventually, like with tobacco, you see some people selling tobacco as a convenience to the customers. It's no longer a profit center. [LB978]

SENATOR KRIST: Okay. So tobacco...not a state law; we're talking a federal law. Tobacco took how long to actually come back up and start being a competitive market? [LB978]

KATHY SIEFKEN: I think it's just been recently. It's not really competitive now. The people that are selling it below...or above the minimum are people that are selling it really not as a profit center as it used to be, but as a convenience to their customers. [LB978]

SENATOR KRIST: I see. Thank you very much. Any other questions for Kathy? Thank you for your testimony. [LB978]

KATHY SIEFKEN: Thanks. [LB978]

SENATOR KRIST: Any other opponents? Neutral testimony? Any neutral testimony? Going once, going twice. Senator Karpisek, would you like to close? [LB978]

SENATOR KARPISEK: I would. Thank you, Senator Krist. And I know that this is a touchy area because having owned my own business I don't like government, as you said, stepping in. However, I was a little bit surprised that the grocery stores that I've talked to thought this was a pretty good idea. Of course, they're the smaller ones and, I don't know, may not even belong. I don't know. But I just was thinking about it, so what if they gave it away free? Sometimes you buy one, get one free, or just something free. Would that make a difference and would that be right? And maybe that wouldn't even happen. However, I do know that there are a lot of small stores that are having an issue with this, and especially just liquor stores. I don't know that it's only beer. Beer is one of the things, maybe most...not most...over 50 percent. But I think also a hard liquor tube, that is pretty expensive. You run a sale on Jack Daniels or something to come in and get people in. It is something to think about, something to talk about, and I agree with Senator Krist on looking at how the tobacco goes. I don't want people not to be able to

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make money and do what they want to do. However, this is a different kind of product. And, of course, I'm always happy to see the cheapest beer that I can find also. So with that, we'll talk about it later and I'd take any questions. [LB978]

SENATOR KRIST: Any questions for the senator? Thank you so much. With that, we will close the hearing on LB978 and we will begin the hearing on LB987, sir. And you're clear to open when you need to. [LB978 LB987]

SENATOR KARPISEK: Thank you, Senator Krist. For the record, my name is Russ Karpisek, K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. LB987 came out of conversations with the Liquor Control Commission as well as an interim study. The commission was concerned that the State Patrol has been stretched fairly thin, and thought that adding liquor inspectors would help the commission to comply with its statutory requirements to inspect the premises of licensees and respond to allegations of Liquor Control Act violations. The reason why I feel the fiscal note is so high is because it is based on 12 full-time inspectors and two administrative assistants being added to the commission. Keep in mind that I am not looking to transfer the State Patrol positions to the commission, but to complement existing patrol officers whose primary duty is to enforce the Liquor Control Act with additional inspectors working directly for the commission. The General Fund allocation may be reduced depending on the committee's determination of what are the commission's needs. Also I would be willing to stagger the addition of inspectors to lessen the immediate fiscal impact. Mr. Rupe, executive director of the Liquor Control Commission, again will be testifying. He can provide you with additional information and answer questions you may have. What I see with this bill, and I think Hobie will tell me if I'm wrong, but in '87 maybe, we had 12 FTEs under the Liquor Control Division. They were all moved to the State Patrol. In that time the State Patrol has not had a real increase in numbers because of budgets and those sort of things. So I just feel that if we would put those 12 FTEs back under the Liquor Control Commission, not taking them away from the State Patrol, because I feel the State Patrol is already too thin, that would free up those 12 people that are over there right now to do State Patrol work and have the 12 under the Liquor Control Commission to do liquor control things and only that. I realize that 12 may be too many. Maybe we can start with six. But I still think that the liquor control inspectors should be under the direct supervision of the Liquor Control Commission rather than the State Patrol. Not to say that the State Patrol has done a bad job with it, but I think that as low as their numbers are, they may not be able to get out and do as much as we would like them to do. I think the other part is the interaction with the public and the people that they're inspecting. I think that people under the Liquor Control Commission would be trained in a different way to work with those people rather than maybe what a state patrolman, the way they are trained to do things. With that I'd be glad to take any questions. [LB987]

SENATOR KRIST: Any questions for the senator? Seeing none, can we have the first

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proponent for LB987? Welcome back, Mr. Rupe. [LB987]

HOBERT RUPE: Welcome back. Thank you very much, Senator Krist. Senator Krist, members of the 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. Some of you were here for the interim study, and I'll just try to give you a thumbnail history of the way the inspectors have worked in the past and how they've worked under the patrol. Up until 1987, there were state inspectors. They were certified law enforcement officers. They generally held the rank of State Deputy Sheriff, much the same as the police at UNL or the Game and Parks game wardens have, and they were directly under the control of the commission. Back in 1987, the decision was made to move those over to the patrol with the theory that, hey, let's, you know, try to get more broadband. We're going to have...you know, we're the law enforcement professionals; you know, let's move those over. So those 12 FTEs were moved over. I guess the only thing if I could go back and redo time at that location, I would have probably done an MOU or a memorandum of understanding regarding how those positions should be utilized. Because I want nothing (inaudible) saying right now to disparage the work that the individual Nebraska State Patrol liquor inspectors and investigators do. They do a fantastic job. Unfortunately there's not enough of them and/or they're being pulled in too many different directions. Back then there were 12 FTEs and that's all they did was liquor inspector. Some of them moved over and some of those chose to retire, and they filled those positions with patrol officers. Right now, I guess, if I were to guess, and, you know, the patrol might disagree, I think there are probably ten inspectors who as part of their duties, some much more than others, are liquor investigators. They're also doing a lot of other things as well as liquor. They're being pulled and that's nothing to say about the patrol. The patrol, their manpower has not been going up. In fact, it's been going down because of manpower issues...because of budget issues. They have a trained investigator. They're going to use them how they see fit, and from their perspective, you know, liquor might not be their highest priority. Unfortunately that's my only priority. The commission is charged with enforcement of the Nebraska Liquor Control Act, so that's why we brought the issue in front of you on the interim study and why we're here today. The budget...and like I say, I'm not in the habit of putting out \$1.8 million fiscal notes followed up by continuing \$1.4 million fiscal notes. When we were looking at how to answer the fiscal note internally, we said, okay, let's look at a worst-case scenario. If the patrol were to stop doing the actions that they're doing right now, what would be the requirements that we would have to hire to do the jobs? There were 12 back in 1987. We have a lot more liquor licenses now, but at the same time I said let's keep it at 12. Let's also add the two support staff to help them on the administrative side. Those 12 positions, we looked what is the closest thing existing in state statute to where they are, and I settled upon the idea of the game wardens, you know, they...who have general arrest powers. They're deputy sheriffs but their focus is primarily on one section of the act. Theirs is enforcing the game laws. This would be the liquor. So we sort of structured their salary structures off that. The reason why it's a lot bigger the first year

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is, of course, the theory would be that 11 of those 12 individuals would be offed out of their homes. They would have cars. They would have computers. They would have side arms. There would be in the office at our...located here, would be the supervisor and the two administrative staff, you know, so that's why it looks airy and it's sort of fungible. You can look at it. If you decide to go less, it...our paper breaks down what we think each investigator would cost going forward. The patrol right now does a very good job about when they get the applications, doing the background investigations and, for the most part, on complaints. And because of manpower issues, that's what they're doing. If I were to characterize it, they have been placed because of manpower issues into a reactionary enforcement footing. They're going around putting out fires and doing what they have to do on the background checks to do the new licenses to go out. Part of the act says the Nebraska Liquor Control Commission shall have all licensed premises inspected on a regular basis. Unfortunately, across the state right now, I don't think that's happening, and it's not...like I say, nothing against the investigators. They're just being pulled in too many different directions currently. During the interim study, a couple things...options came out. This was one option that was discussed. Another option at that point in time would have been doing a dedicated income...dedicated funding stream back to the patrol with then perhaps criteria much how they do for the highway...the...you know, the guys that do the truck stops, the carrier enforcement division where they have to have a certain manpower issue dedicated to that in order to keep that funding issue. That, of course, could be another position if you're looking at tier-ups keeping us in the patrol. The commission is just...you know, we've been trying...we've been dealing with this issue for a while, and we're just getting concerned that, you know, as the resources are being stretched further and further, that we're going to start developing holes in the regulatory scheme and you're going to have inadequate and inconsistent enforcement. And so that was one of the reasons why we brought this issue before the General Affairs Committee in the interim study, and one reason why Senator Karpisek saw fit to introduce this bill on our behalf. And I would be happy to answer any questions. [LB987]

SENATOR KRIST: Questions for Mr. Rupe? Senator Bloomfield and then Senator Coash. [LB987]

SENATOR BLOOMFIELD: Thank you, Senator Krist. Your fiscal note of \$1.8 million, how many highway patrolmen could be hired for that? [LB987]

HOBERT RUPE: I don't know. You'd have to look into it. I will say we were...we did not get a lot of aid from the patrol on their costs of their investigators. That \$1.8 million is a little higher. I think you would be looking at a continuing allocation of closer to \$1.4 million. That \$1.8 million would have the initial allotment of cars, phones, computers, which then you could appropriate over the remainder. You're looking at an investigator probably costing somewhere about \$100,000, in which you factor in salary, benefits, cars and other things. Our budget right now for the commission is...we have 13

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employees and it's right around a million. So this, in effect, would be more than doubling our existing staffing, and generally those positions like game warden positions, I think like right around \$42,000 for a starting level. So they would be slightly higher than most of our administrative staff currently. So, you know, I don't think it's out of bounds. But that's one reason why it's \$1.8 million. You're looking at the initial startup. The actual ongoing appropriation was somewhere close to about \$1.4 million. [LB987]

SENATOR BLOOMFIELD: Okay. If I'm going to do the math in my head, even if we're at \$1.4 million, does that not allow for 14 highway patrolmen at \$100,000 a year? [LB987]

HOBERT RUPE: It might be. Yeah, it would be close. But you have to remember, one of the reasons why we have that there is that currently the patrol is set up for, on their mileage, their cars, are all part of a different division. And so this would have to be incorporated into this budget. You know, right now, they're able to shift some of their administrative staff, their administrative costs for those investigators to other parts of the patrol, where we would have to sort of create them from whole cloth. [LB987]

SENATOR BLOOMFIELD: It just looks to me like we'd be killing two birds with one rock if we just hired extra patrolmen. [LB987]

HOBERT RUPE: As I said, if there was a dedicated income stream where we knew that they were being produced primarily or almost exclusively for liquor control, I don't think the commission would have an objection to that. You know, our problem is, is we've got good investigators that are being pulled in so many different directions beyond just liquor. [LB987]

SENATOR KRIST: Senator Coash. [LB987]

SENATOR COASH: Thank you. Hobie, let's say that you've got one male. The State Patrol continued to do it the best they can with the resources they have, and there was enough money to give you just one liquor inspector. So you'd...and you'd have the State Patrol out there doing their thing and you'd have one. Would you be able to prioritize or put that...how...my question would be, how would you prioritize the inspections if you just had one guy out there doing it all, you know, 40 hours a week? How would you manage that person's work? [LB987]

HOBERT RUPE: If I just had the one, what I would do is I would prioritize those for complaints which are hard to prove and require a lot of manpower and a lot of document, a lot of times hidden ownership concerns where you're going to be having to look at subpoenaed bank records, going through property deeds, looking at issues like that. For instance, we had the biggest investigation we ever had as a commission, happened just this last spring...or sorry, a year ago last April, where we had a wholesaler who was in violation. And the patrol stepped up and did fantastic. But the

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manpower of the patrol that was required, and for the commission, really showed, you know, that with a major investigation it really...you know, it red-lined our internal staff, and we had to defer a lot of other investigations. If I were to just get one investigator, they would probably be primarily designed to look at, you know...I almost would consider them a super fireman, looking at the ones where you had long-term complaints, complex cases, and I would have them doing those kind of investigations. You know, so I would, you know, trust me, if I...you know, I can find more than enough work for as many people as you're willing to give me or let me have. [LB987]

SENATOR COASH: Thank you. [LB987]

SENATOR KRIST: Thank you, Senator Coash. Any other questions? Seeing none, thank you very much. [LB987]

HOBERT RUPE: Thank you. [LB987]

SENATOR KRIST: Any other proponents? Anyone want to speak in favor? How about opposition? Anyone want to speak in opposition to the bill? [LB987]

JIM MOYLAN: Mr. Chairman and members of the committee, Happy New Year. This is the first time I've been before you this year. Unusual. I'm Jim Moylan, M-o-y-l-a-n, Omaha, Nebraska, and I'm the general counsel for the Nebraska Licensed Beverage Association, which is a state association of liquor retailers, of which there's about...we don't have them all as members, but I think there's around 4,300 licensees. Well, we're pretty much in opposition to moving, you know, the enforcement from the State Patrol over to the commission. I was here when they moved them from the commission out to the State Patrol, in 1984 or '85, when Governor Kerrey was here. It seemed to have worked well and I don't know what the patrol's position on this is. I don't think there's anybody here testifying for it or against it. I haven't seen anybody anyhow. If you go through this, I wonder if there's still a Liquor Commission, because as you go through it, the executive director is in there 27 times. Everything centered with the executive director. And maybe we don't need a commission. You can save yourself \$36,500 if you want to get rid of them and just let this go and let the executive director just run it all. I don't think that that is the intent of the law. Now as you go through it piece by piece, it lays out all those duties, and the duties are pretty much what the Attorney General or other law enforcement duties are right now as far as subpoenas and contempt and all this and that. Now the Attorney General is the attorney for the commission, and they have a good young lady over there who does all of the prosecuting. What we're doing here, we're mixing the executive branch with the quasijudicial branch, because the executive director is also the hearing examiner for the commission on most of their cases over there. So he would be in charge of all those investigators out there. He could manipulate them any way he wanted to, to satisfy the things he has when he then moves around and is the hearing examiner. I don't think you can mix these together.

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That would be like letting the district judges and county court judges in Omaha hire all the policemen. Then they've got total control of them, you know, and they could regulate them however they wanted to. That's a mayor and executive position up there, and the mayor is the one that hires the police chief and they hire all the policemen, and then the courts determine anything that comes before them. Now the way this is set up, the enforcement, they will go out and enforce, and then come in--and at the direction of the executive director--and then come in and he would sit as the hearing examiners on those. I don't think this is solving the problem. I think the answer is get rid of all liquor enforcement State Patrol enforcement. Let's go back and let the locals handle it. The locals are there. They know everybody who's in the business. When they get a license before them, they can check them out. Now, true, it's gotten to be a big thing. Back when the previous executive director was there, they might be going through an application and see that somebody forgot to mention something of, you know, of their violations, whether they were speeding or whatever they were, way back, pretty much minor, you know. So they cite them in under their character and reputation, because you lied on your application. Well, they just forgot about it. Now I think, as you know, felons and many of the high level misdemeanors, those people that have them are not eligible to hold a license. The commission, the locals, can run that down too, you know, when they're going through the applications before they make a recommendation. If they get to the commission and the locals have forgotten something, the commission can just go through it. They don't have to send an investigator out, you know, to check this out or anything. If they run up the whatever it is on the patrol...is it the NCIS?...whatever they get their information, they can run that out. And if they find somebody that's ineligible for a license, then fine, bring them down and reject the license. But...and that would work just fine with just the local police, cities, sheriffs out in the counties. They could take care of all this licensing, and save you I don't know how much. The State Patrol, I think, has a \$54 million budget for this coming year. Now they don't have it separated out how many of them are liquor enforcers, you know. So we...I would recommend that you just go back to the locals and let them handle it. Save the commission a ton of work, you know. It's gotten to be in the last few years that anybody who holds a liquor license, they're pretty well looked down on, you know. Actually these people, they're law-abiding citizens. They have a license. They don't want any violations, and they do their best to not. Most of the cases over there anymore have been those compliance checks, and I don't know how long they're going to go on, but they don't seem to serve any purpose. And, you know, that's killing an ant with a sledge hammer when less than 7 percent, according to a survey four or five years ago, of minors get their alcohol from retail establishments--less than 7 percent. So I don't know, their compliance checks are expensive to run and we just don't, you know, think they serve any purpose. You know, if half the kids were getting them from retail establishments, then I'd see a reason for the compliance checks. But anyhow, they are business owners. They're proud of their business. They're all community leaders out there. And community activities, they're generally the ones that come forth and help raise funds for any community activities, and you know, it's a place where local people

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congregate, you know. They're just good, decent people out there serving the public. So we...I'd ask you, number one, to indefinitely postpone the bill or take the budgets out and let local handle it. That's my recommendation. Any questions, I'd be happy to answer them. [LB987]

SENATOR KRIST: Thank you, sir. Any questions? Thanks for your testimony. [LB987]

JIM MOYLAN: Thank you. [LB987]

SENATOR KRIST: Any other opposition? Any other opposing testimony? Welcome back. Oh, you've got your boot off too. I didn't even notice that at first. [LB987]

KATHY SIEFKEN: Yes, I did. I'm almost walking normal. [LB987]

SENATOR LAMBERT: No scooter or anything. [LB987]

KATHY SIEFKEN: It was fun. (Laugh) Senator Krist and members of the committee, my name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, representing the Nebraska Grocery Industry Association here in opposition to LB987. And, first of all, I would like to let everyone know that we approve of compliance checks. We think they do what they were meant to do. We think they help keep alcohol out of the hands of minors and we think that they should continue. With that, we believe that the State Patrol is doing a good job, that we really don't need to have more expense and more people over with the Liquor Control Commission. And one of the facts that I kind of wanted to throw out there and make everyone aware of is the fact that before I started working for the grocers, which has been about 19, 20 years ago--that's a long time--the compliance check rate was very, very low, about...I believe one of the statistics that came out in floor debate was that it was about 46 percent of the retailers sold. Nowadays, it's about 92 percent of the retailers are in compliance. The compliance checks are working and the compliance checks have been working when minors go in and tell the truth. And so we would like for the State Patrol to continue conducting those checks and we don't think it would be necessary for the Liquor Control Commission to take on that aspect, because it is being done right now in an efficient and cost-effective manner. I know that the State Patrol has other things that they would use their employees for, and as Hobie said, they had a big investigation this last summer. They worked with State Patrol. They didn't have to hire additional people and they got the job done. And my point is, what we have now seems to work. So with that, if you have any questions, I'd be happy to try to answer any. [LB987]

SENATOR KRIST: Any questions? Senator Larson. [LB987]

SENATOR LARSON: Thank you, Ms. Siefken. Hobie mentioned that this would essentially double the Liquor Control Commission, so I get you're essentially saying that

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you're against the added bureaucracy in our government. (Laugh) [LB987]

KATHY SIEFKEN: We're always against expanding government. Yes. [LB987]

SENATOR LARSON: Thank you. (Laugh) [LB987]

SENATOR KRIST: Any other questions? Thank you, Senator Larson. Thank you for your testimony. Any other opposition? Welcome. [LB987]

DIANE RIIBE: Hi, Senator Krist and members of the committee. My name is Diane Riibe with Project Extra Mile. I just wanted to give you some quick information. We would oppose the bill as it stands currently, again first and foremost to remember that alcohol is no ordinary commodity, so we're dealing with something different. I know we're not here to talk about compliance checks, so certainly if there are questions I'm happy to do that, but I wanted to give you at least the information that we know from all the archival data, and that is that when the efforts were started in 1997 as collaborative in the Omaha metro area, we had 41 percent of the businesses selling to minors and now it's about 5 percent. That happens because you have consistent enforcement of the law, so that is there. It was a little bit higher in the Blair area recently, but I will tell you as those compliance checks are done less frequently, which they are currently, you will see that noncompliant rate continue to increase. That's what the data tells us locally as well as across the country. We would just reiterate and make a point that enforcement of the Liquor Control Act is an enforcement component. It's extremely important, we believe, to leave those functions separated. We have a regulatory body with the Liquor Control Commission and we have an enforcement division with the State Patrol. It's just important since we're not a control state. There are 18, I believe, states that actually are control states, and so they control the sale of their alcohol. Ours is certainly the free enterprise system which is how we've decided to do it, but to merge those functions at a state level with our regulatory body, and expect them to do the enforcement as well, doesn't seem like a wise piece. It seems like centralizing that power in a place that perhaps is not necessary. The dedicated funding stream to the State Patrol certainly would be an idea that would be supported at our end and we'd be happy to certainly support that. I guess I would end by saying even though we could talk about the numbers for a long time, in Nebraska as much as 22 and more percent of the alcohol that's sold in this state is consumed by those who are under 21. Does that mean that they personally went and directly got it? It does not always. But what we do know is there's a percentage--and depending on the community--of places and locations where kids can access directly alcohol. This is not about saying, hammer 95, 97 percent. It's about saying when we have that small percentage that illegally provide alcohol to minors, we have to have a system in place that appropriately responds to those and deals with them. So thank you very much. [LB987]

SENATOR KRIST: Any questions for Ms. Riibe? As long as somebody is bringing up

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compliance checks, I will tell you that I am really satisfied with the compliance checks as long as people comply and are consistent with compliance checks, which in this whole discussion about compliance checks we have found that it's local law enforcement that seems to be taking things in their own hands, and it's been justified and it's been validated throughout the commission. So I'll use that to editorialize my own position on compliance checks. But I thank you for your testimony. [LB987]

DIANE RIIBE: Well, and I would say, Senator Krist, that that...I believe that you have heard stories of that. I would tell you that that's not been our experience. I will say again, as I've said before this committee, the State Patrol is seen by those local agencies as the, if you will, expert on liquor enforcement, and they really rely upon their knowledge and their expertise. And we would like to see that continue. There's no doubt that everyone is stretched in terms of their resources in all parts of all that we do and all that we do within government. We're all stretched. So that we recognize. But in terms of the system and the structure, it should remain. [LB987]

SENATOR KRIST: Okay. Thank you very much. [LB987]

DIANNE RIIBE: Thank you. [LB987]

SENATOR KRIST: Any other opponents? Any testimony in a neutral capacity? Mr. Otto, welcome back. [LB987]

JIM OTTO: Senator Krist, members of the committee, my name is Jim Otto. That's J-i-m O-t-t-o. I'm here today as a registered lobbyist for the Nebraska Restaurant Association and wanted to address LB987 in a neutral capacity on the Restaurant Association's behalf. I don't need to be repetitive. Basically we're sympathetic to Mr. Rupe's concerns, understand his frustration. He basically agreed to, when Senator Bloomfield asked him a question, if there could be just more of a priority in the State Patrol and it could be handled with more of a priority, and maybe he has a little more input on how it's handled, we would be totally supportive of that. I want to also say that the Restaurant Association is totally in agreement with compliance checks and believe that they do a lot of good. I want to go on record as saying that we are in no way against compliance checks. We just feel that it might be better done in the State Patrol, but it was a valid introduction of a bill because it does raise a concern and we sympathize with that concern. [LB987]

SENATOR KRIST: Thank you, sir. Any questions for Mr. Otto? Thank you for your testimony. Any other in a neutral capacity? Senator, would you like to close? [LB987]

SENATOR KARPISEK: Thank you, Senator Krist and members of the committee. This has nothing to do with compliance checks, and I know we got off on that and, you know, I never even thought of that with this bill. However, I think some of the opposition thinks

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that's what I'm trying to do. It is not at all. What I'm trying to do is to put liquor enforcement under the Liquor Control Commission. Maybe that's why it's called that, I'm not sure, but I think that's why. Senator Bloomfield, you talked about getting more bang for your buck in the State Patrol. I guess I'm just going to be honest here. Either I want to see us get our bang for our buck by giving the patrol this money, or I want it go back over to the Liquor Control Commission. So what I'm saying is I don't think we're getting our bang for our buck right now. People to come up and oppose this bill that are usually worried about the underage drinking and that sort of thing, this bill is trying to put that enforcement over where that's all they do, not a state patrolmen that has other responsibilities, and when they can, work on this sort of thing. For Mr. Rupe to get people to go out on these things he has to get ahold of the Colonel who has to go down the chain and okay all of this. What I'm trying to do is put it right under the executive director or in the commission, so when something happens right now they can go. Is 12 too many? Could be. Would it be cheaper to do it under the troopers? I don't know. And if that's the concern then I think we can look at this and adjust it. I don't see why it should be any different. In this bill these people would be the same almost as a state patrolmen, except they wouldn't be able to write speeding tickets and that sort of thing. But they go into a bar, they see something illegal going on, they can do something about it. It's not only the liquor control. But I think what I'm trying to do is get it back where it should have been in the first place. I absolutely agree that the State Patrol is short. They're too short, and I feel that they're not using their men to do--I shouldn't say men--their employees to do the job of liquor control enforcement the way I'd like to see it done. It's why I'm just trying to get more money. If I really wanted to, I would try to just take those 12 away from the State Patrol and move them over. I'm not trying to do that. That's why there's a fiscal note. I'm not trying to take any of their people away. Try to help them out. They wouldn't have to divert any of their time to liquor issues or not more than normal. We would have these people that this is what they do day in and day out. They would know how to interact with these people. I've seen some really poor interaction with the troops going to places, working these sort of things. I've seen it firsthand. Hence, some more of this bill. I don't want to get on the patrol. I think they do a great job. I just think that this is trying to help them out to do their job and to do liquor enforcement better. I'd take any questions. [LB987]

SENATOR KRIST: Any questions for the senator? It is my fervent hope, as it was promised to me a few weeks ago, that the conference in Grand Island will yield more solid check policy from NSP, no matter what the outcome. And thank you for bringing this discussion forward. [LB987]

SENATOR KARPSEK: Well, and I...you know, I would assume that they...if this went under the Liquor Control Commission, there may be more compliance checks, because that is what...they would have the people, then that's all they do is work on alcohol issues. [LB987]

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SENATOR KRIST: And unlike the rap that you and I have perceived, it is not our intention to make compliance any less effective. [LB987]

SENATOR KARPISEK: Absolutely not. [LB987]

SENATOR KRIST: In fact, it's to comply with it in the correct way, so. [LB987]

SENATOR KARPISEK: Yes. [LB987]

SENATOR KRIST: Enough editorializing. Thank you, sir. [LB987]

SENATOR KARPISEK: Thank you. [LB987]

SENATOR KRIST: That concludes the hearing on LB987 and my reign as the Chair. [LB987]

SENATOR KARPISEK: Senator Coash. Senator Coash will now introduce LB1130. Whenever you're ready, Senator Coash. [LB1130]

SENATOR COASH: Thank you, Chairman Karpisek. Good afternoon, fellow members of the General Affairs Committee. For the record, I'm Colby Coash, C-o-l-b-y C-o-a-s-h, and I represent District 27 right here in Lincoln. I'm here to introduce LB1130. It's my privilege to do so. This is a bill to authorize local governing bodies, at their choosing, to designate and regulate portions of their communities as entertainment districts. Within an entertainment district, it would be a space used as a common area which is shared and accessed by abutting retail shops, restaurants, and bars. The area would have limited pedestrian accessibility and would be closed to vehicular traffic when in use. Each of these liquor license holders abutting the common areas would have to carry an additional entertainment district license in order to allow the serving and consumption of their alcohol in these common areas. To obtain an entertainment district license, a bar or restaurant owner must have a current retail, microbrewery or microdistillery license in place. The application would be filed with the Liquor Control Commission, and an additional license fee of \$300 would be paid to the local governing body. The best way to illustrate this is kind of like having a CDL. Everybody has got a license. This is just an addition on to your current license--an entertainment district license. This bill contains provisions that promote the safety and well-being in the common area business owners and patrons. Some of the testifiers that will follow me will go into greater detail, but here are some of the key measures I'd like you keep in mind. The local governing body may regulate an entertainment district by city ordinance and may also revoke an entertainment district designation if they find it threatens their health, safety, or welfare to their public. Alcohol may only be served in common areas during hours already authorized for sale and only when food service is available in that common area. Each liquor license holder must serve drinks for the common area patrons in cups that

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prominently display their logo in order to hold them accountable for responsible service. And finally, if an entertainment district license holder violates any rules related to the entertainment district license, he or she may lose his or her retail, craft brewery or microdistillery license. So we kind of have a hammer and a shovel here. The local governing body, in addition to what's in here, can put any other regulations in place that they think meets the needs of their community. This license starts just like any other license. It starts at the local level. So a person who wants to apply for this is going to have to start with their local city council or county board. Now I'm bringing this bill because I want to give local governing bodies an option to attract development, to attract special events and tourists to their communities. Entertainment districts are what growing progressive cities are doing to promote their area and events, to court out-of-community visitors, and to provide entertainment options for their citizens. I've talked with many people my age and younger and we continue to see an outward migration of young people to communities with more vibrant entertainment options. No doubt that places like Kansas City and San Antonio come up frequently in my discussions as to what kind of places draw young people, and I've come to learn that there are a handful of communities and developments that would like to use this tool to develop their new areas. And while it is possible that current areas could qualify for districts such as this, it is more likely that this would be taken into consideration as new developments are starting to creep up in larger communities. With that I will close. There are some people behind me that are going to explain how they might put this to work, their experience in other communities. I've asked them to also speak to this, and I'll take any questions. [LB1130]

SENATOR KARPISEK: Thank you, Senator Coash. Any questions? I think we'll wait for the experts. Thank you. First proponent for LB1130. We know who you are. Welcome to the committee. [LB1130]

DAVE LANDIS: Thank you, Chairman Karpisek. [LB1130]

SENATOR MCGILL: For better or for worse. (Laugh) [LB1130]

DAVE LANDIS: Dave Landis, Urban Development Department director for the city of Lincoln, here as a testifier on behalf of the city in favor of the bill. Let me tell you why the city of Lincoln would be here, and I'm not going to talk about the nuts and bolts. I'll leave that behind for other testifiers. But I want to tell you the motivation or the why a city like Lincoln would be in favor of the bill. We are rolling the dice right now. We've gotten approval from our voters to do a \$170 million arena. We are working with a developer for, in total, perhaps \$100 million of private investment. That's a big gamble for a city. However, we have some indicators of where that kind of gamble pays off handsomely for both the public sector and the private sector. And let me give an example of a good one and a not so good one in my own personal experience. A couple of years ago I was in Sacramento for a conference, saw that the Sacramento Kings were playing. Got in

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my rental car, drove outside of town where the Sacramento Kings play in an arena for about 14,000 people. It was a huge, vast parking lot and one arena, and nothing around it. Got there, got out, got my ticket. Walked in a little peckish. Decided to eat. Walked over to the concession stand. Bought a \$6 bag of M&M's, a \$9 Coke, and a \$12.50 hot dog. Watched the game. The Sacramento Kings lost. Got in my car, drove back downtown. That arena is going to be closed and torn down. My son and I, on the other hand, about six months later drove to Denver, Colorado, to a new arena that's in the LoDo area. Got out. Parked. We were going to see the Police reunion--Police being a rock-and-roll band. A trio, okay? (Laughter) It wasn't a Benevolent Order of the Police conference. So we get out, we park. We walk to our hotel. We buy a night's worth of parking and a night's worth of stay. It's a couple of hours before the concert. We've already got our tickets on-line. We walk to another area and start looking at the eating establishments back and forth. Pick one that we like. Pass on the Indian food and the Afghan food and the Chinese. Went to an American meat place. Bought our steaks and were having a wonderful meal. Get out from there. We're walking back and there's a retail shop. Go into the retail shop and there's a hand-carved chess set of Sherlock Holmes characters. I love Sherlock Holmes. I bought it for 225 bucks. That was a bargain. Got (inaudible). Now I'm thinking to myself, you know, I'm going to go home from this weekend with my son having spent 225 bucks on myself, to my wife who is not here. So I kept walking to another shop where they had jewelry, and I found a very lovely brooch and pin with a little gemstone in it, and was happy to buy that for about 175 bucks. Went to the concert. It was a knockout. The show got done. We walked back and said, you know, I think maybe the English premier soccer is on cable television in a sports bar. We walked to a sports bar. We stayed up till about 1:30 watching an English soccer game. Walked back to the hotel. Got up the next day and drove back home having spent about \$800. Here's the difference. I had a fabulous time in Denver. It never crossed my mind what was happening. I resented the bejesus out of Sacramento for their \$12.50 hotdog and their closed arena that didn't work. Why did one work and not the other? One is on the edge of town surrounded by parking. It's a stand-alone operation. Every bit of money that has to come through it is on ticket sales for that event. Sacramento doesn't do well. There is no public...I'm sorry, it's all public. There is no private investment. Denver, on the other hand, I walk once, get out, shop, drink, eat, have entertainment, stay the night, and go home. It's an entirely different feeling. The arena we're building is nestled in the heart of private development with retail, with restaurants, with shops. What we want is an extended stay. It's not that we want to just sell tickets. It's that we want people to come to Lincoln to enjoy something special, and when we do it we want it nestled in the heart of private-sector wealth creation. And, to make that, we need to have unique and vibrant experiences. There are such places that have this idea: Kansas City, the Power and Light District; in Baltimore, down close to the Harbor; in Cleveland, in the Fourth Street Live area; in Louisville--they all have entertainment districts. And the entertainment district is where the communal set of restaurants and food and drink locations can share entertainment. They'll have a concert in the middle so you can come out of your restaurant and enjoy it, or go back

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into a shop and buy, even as you're sharing in those experiences. It makes the private-sector wealth creation stronger; it creates a unique, vibrant experience for people who have nothing else like it; and it gives identity to those districts. The nuts and bolts they'll tell you about. But what do we want? If we're going to roll the dice for \$170 million of public investment and we've got a developer to do \$100 million of investment to help us build that out, we need to have a unique, vibrant experience for people so that they don't just drive to the concert and drive home, but that they come early, stay late, and have a lot to do in between, and that's what an entertainment district is designed to do. Can I answer questions? [LB1130]

SENATOR KARPISEK: Thank you, Senator. Senator Krist. [LB1130]

SENATOR KRIST: Let me emphasize part of your testimony because there will be other people behind you that will try to twist it in a different direction. I didn't once hear you say that you got drunk when you went to the Police. [LB1130]

DAVE LANDIS: Thank you very much, Senator. I'm glad you observed that. [LB1130]

SENATOR KRIST: What I heard was that there were so many things for you to do and eat and enjoy... [LB1130]

DAVE LANDIS: That's right. [LB1130]

SENATOR KRIST: ...within walking distance, not driving. [LB1130]

DAVE LANDIS: Exactly. It was pedestrian oriented. I could park my car and have all those experiences while walking around enjoying myself. I had a glass of wine with my meal. I had...I went to the concert. When I...four hours later I had a second glass of wine as I watched the soccer game, and that was the sum total of it. What it was, was a fine meal. It was a terrific concert. It was a chance to see some soccer from England and a chance to spend some time with my son and shop in between. It was a terrific time. [LB1130]

SENATOR KRIST: And the other note I would make is that I'm sure that there will be an awareness on Lincoln's part and on other cities' part, and particularly Omaha, to be cognizant of those areas that are already zoned such that by the university and the overlap that those kind of things are taken into consideration. We're not talking about violating any of those already in place. [LB1130]

DAVE LANDIS: And I think Senator Coash did a good job of pointing this out. All of the obligations of any license holder remain in place and we add to those responsibilities. Because remember, you can revoke the entire entertainment district's ability to do this. Every party that participates has a shared communal obligation to their neighbors. They

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want to make it work. Take a look at the examples I gave you. If you go down to the Kansas City Power and Light District, if you go to Cleveland, if you go to Louisville, you'll find a high level of cooperation between the city and those folks in the entertainment district. They need it to make it work, and the reason is it's a thermal. It's that lifting of hot air that rises with everything. And if you screw that up, you've screwed it up for everybody. The internal controls are overwhelming to make sure that you don't throw away this opportunity. [LB1130]

SENATOR KRIST: Thank you, sir. [LB1130]

SENATOR KARPISEK: Thank you, Senator Krist. Senator Brasch. [LB1130]

SENATOR BRASCH: Thank you, Chairman Karpisek from Wilber, and thank you, Senator Landis, for joining us today. It sounds lovely. It reminds me of a river walk, boardwalks, things like that. But I have one concern however is that we had our lovely Pershing but we saw all of the downtown retail disappear into offices and things here in Lincoln. And then at one point the Haymarket also 20 years ago, beside the coffee shop there was a retail, and a few retail stores there. Now it seems that that's kind of evolved into maybe more restaurants, bars, and things like that. What makes you believe that retail around an entertainment venue will thrive and they can keep their doors open 8 to 5, Monday through Saturday? Or what is going to drive that? You know, will there be a venue there continually to keep those shops operating? Because we do have Westfield and Village Pointe...or SouthPointe... [LB1130]

DAVE LANDIS: SouthPointe. [LB1130]

SENATOR BRASCH: ...whatever, you know. What is your... [LB1130]

DAVE LANDIS: There are plenty of places to shop in Lincoln. Isn't that true? [LB1130]

SENATOR BRASCH: Right. And that's what I'm just curious how this is going to be continually successful. [LB1130]

DAVE LANDIS: I think it would be fair to say that on the public/private partnership, you're asking a question about the level of expertise that our private partner who is out looking for people to lease and to come into the area and to take a roll of the dice with their fortunes could answer better than I. So I'm going to ask that our private developer answer that. But here's what I think we're going to say. Understand, we intend to have a steady stream of people coming to the area with an ease to get there, a place to park when they get there, and an existing positive experience in the Haymarket. And we want to...and we will add to that a related but newer area of development on the...to the west side. For that, we are looking at 100,000 square feet of living space so that people live in the area. All the more reason to shop while they walk because they live there.

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Secondly, 100,000 square feet of commercial space so that people will be there for work. And when work is over, if it's attractive, they'll step down the street and enjoy themselves with their colleagues. And 100,000 square feet of retail. That's what we're projecting to try to do from the private sector. And understand, they have to take the risk of the marketplace. So can I ask you to ask Brett behind me, who is out trying to market that, that opportunity, what that is? Our side of the equation, we will give you a twenty-first century arena with space for a lot of people and an intention to program with a core anchor client, the University of Nebraska, and whatever else we can bring in that jump us from the kinds of shows that we're having in Lincoln now to the kinds of shows that Nebraskans regularly drive to Omaha, drive to Des Moines, or drive to Kansas City to see. That's the part of the equation we'll provide and they'll provide I think what it is you're asking, Senator. [LB1130]

SENATOR BRASCH: So in other words, at this point we are not prepared to have the kind of shows that people want to see. [LB1130]

DAVE LANDIS: That's true. The all-time Pershing record was the Allman Brothers 28 years ago. The biggest concert Pershing ever had was 28 years ago, and they haven't been back. [LB1130]

SENATOR BRASCH: I have no other questions. Thank you. [LB1130]

SENATOR KARPISEK: Thank you, Senator Brasch. Senator McGill. [LB1130]

SENATOR MCGILL: Just for clarification in my head, Senator Landis, are we talking in terms of where our entertainment district would be if this bill passed? Would it be within the new complex that's being built or would it be within the existing Haymarket area? Like what...are there streets that you can talk about or? [LB1130]

DAVE LANDIS: What we don't have is a map to give you. [LB1130]

SENATOR MCGILL: Okay. [LB1130]

DAVE LANDIS: What we do have is this: In concert with our private-sector partner, we've come to you saying this is a tool that we think would be valuable for us to make the West Haymarket successful. Might there be other locations? Not to say no. Do we have boundaries? No. But what we do have is we have a private-sector partner who said, you know, this model has worked elsewhere for high-end developments like we're doing. And if we had available this tool for us, we would like to use it because we think it adds to coming early and staying late or staying the next day, staying in one of those hotels, and getting the kind of traffic that will make the retail locations attractive with enough business on the street that a shop has a darn good chance of being successful if they were selling, you know, middle- to high-end goods. So the idea came with our

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partner to us, and we agreed with them, which is why we're here. [LB1130]

SENATOR MCGILL: Well, I've been to Louisville and it's fabulous, been there for a conference. And to be able to walk down and enjoy nightlife in the street and walk back to your hotel, it's the perfect setup. So I'm very supportive of this. Thank you. [LB1130]

DAVE LANDIS: And you were on...you know, it was a pedestrian-friendly interactive exchange and that's what we're looking for. [LB1130]

SENATOR KARPISEK: Thank you, Senator McGill. Any other questions? I was really in favor of this bill until I knew it was going to cost me so much money to go to one of these concerts. (Laughter) [LB1130]

DAVE LANDIS: Senator Karpisek, if you can keep yourself from finding a Sherlock Holmes chess set, you won't have to buy the brooch for your wife and you can save yourself about 450 bucks right in the middle of that thing. I couldn't help myself. I'm sorry. [LB1130]

SENATOR KARPISEK: Well, if I find, like, a Husker chess set or something, I may have to have that. Thank you, Senator. [LB1130]

DAVE LANDIS: Thank you, Senator. [LB1130]

SENATOR KARPISEK: Any more proponent testimony? Welcome. [LB1130]

BRETT WEST: (Exhibits 4 and 5) Hello. My name is Brett West, B-r-e-t-t W-e-s-t. I'm with WRK Development and we're the private side of Dave's conversation. And I can't believe I have to follow Dave Landis. This is going to be tough. So I'm handing out a couple of things. I think it's very hard to envision what this would look like, and we understand that, so we're going to share kind of some of the ideas about our project specifically so you can look and say, well, how would this be executed? Although this is really just the highest level to help us use a new tool that's not available to us and work with the city in creating an entertainment district, the project really is focused around the arena and extending that event and that event atmosphere. And really the project has so much going for it that some may ask, well, why do you need this as well? Well, this is really an opportunity to create a unique experience that is about, in this case, our project. Certainly it's open to other places, but from our project we look at the arena as some place someone has made a logical investment to spend significant time or energy to come down here and may want to stay later and stay overnight or stay for the whole weekend, or they're in Lincoln for a unique event and they want to have the best...you know, a great place to come, a great place to go do something. We also see this project on the nonevent nights still wanting to have a little bit of panache to it, a little something unique. And really we've been working to design the project around this idea. And if you

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look at page 3 in the handout, it's really an illustration of how this would work. You're looking at an area that has an ice-skating rink in the winter. During the summer, on the fourth page you'll see movie night. We have this idea of the cube in the middle which is an entertainment and art piece. So really it's about that kind of central core area and primarily the street along Canopy Street in front of the arena. And we're looking at different ways on a daily basis that you could sit outside without having a sidewalk fence around you. So currently we could do this same project, however, we'd be working with the city to put a sidewalk ordinance in there by 4-foot gates around all the seating areas, when really we'd like a very flexible plaza space that allows people to go into one venue and come out and sit with their friends by the hearth or sit around the ice-skating rink and watch their kids skate and do things like that. So really there...like I said, that's kind of the day-to-day activity. We do see smaller events like movie night or pre- or postgame events for either the arena. If, you know, Dave's favorite band, Lady Gaga, shows up, we can have a pregame or a pre-event type of activity. And also we're working with the city, that street in front of Canopy will be closed down during large arena events. So this is another kind of tool that we can use to kind of enhance that experience. And then there certainly will be specific events where we'd be working with the SDL license, a similar SDL-type license, special district license, with the city where we'd have potentially shutdown of the entire street. So there are control points in and around this entertainment district. And the reason this is important that we're bringing it to you now is that timing is of the essence. Our project is set to open in 2013 when the arena opens. And really we want to work with the city to design the project and the experience to have and function with all of these different levels of security so that we're putting in the right fence or the right controls. So that's all I have to share with you, and ready for questions. [LB1130]

SENATOR KARPSEK: Thank you. Senator Bloomfield. [LB1130]

SENATOR BLOOMFIELD: Thank you. Do you see or foresee or have you seen in the past with similar things a control issue with underage people being in there wandering around with a...? [LB1130]

BRETT WEST: Well, I think this allows us to have...it basically is extending the liquor license from one of our tenants out into that area, so with the logo cup, that we feel that that's going to create a direct tie back. And as the developer, the last thing we want is to have a problem in this area because we own the underlying real estate. If it goes poorly, our underlying value starts to decline, and so we are looking at higher-end tenants, mostly food, heavy on the food and low on the beverage, coffee shops, those kinds. So we are very cognizant of the fact that this is just a...it's a district opportunity. It gives us an opportunity to host unique events and do unique things in this space. But really the highest tenant really is what we're targeting. Does that answer your question? [LB1130]

SENATOR BLOOMFIELD: No. [LB1130]

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BRETT WEST: Okay. So the minor issue is about control of alcohol getting to minors... [LB1130]

SENATOR BLOOMFIELD: Yeah. [LB1130]

BRETT WEST: ...and that's controlled with the point of sale, which is with our tenant. So they will have...the whole idea is the logo cup. [LB1130]

SENATOR BLOOMFIELD: It will be awful tough if we're just letting them wander around out there in this open area for you to stop me from going in and buying a Budweiser and taking it out and handing it to my 17-year-old son. [LB1130]

BRETT WEST: Right. Well, that's what we're going to work through with the city is the rules and regulations and what creates those different levels that we have to do and why we need kind of some. This opportunity allows us to work directly with them in the design process. [LB1130]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Senator McGill. [LB1130]

SENATOR MCGILL: I know in Louisville I'm pretty sure when they would close down the street they would actually put up some chains and have security... [LB1130]

BRETT WEST: Yes. [LB1130]

SENATOR MCGILL: ...ID'ing you as you go into that area, in the first place. And I suppose if it was a more family-friendly event, they could do the M on the hand so if... [LB1130]

BRETT WEST: Sure. [LB1130]

SENATOR MCGILL: And I know people who try to wash the M off but that permanent marker doesn't...you know, it's still there, and people still get caught. And so something like that I could envision happening here too, where you put up some sort of unobnoxious barrier but still a card into the area. [LB1130]

BRETT WEST: Right. Well, I think at times it will be a very obnoxious barrier, to be quite honest, where it will be if this is an event that is not for minors, that this will become a very controlled situation that we will then be providing and in charge of providing security to meet what the city requires. [LB1130]

SENATOR MCGILL: I know with Fourth Street Live!, I mean it shuts down to nonminors at a certain time of night. And I know this is more set up for a variety of types of events.

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[LB1130]

BRETT WEST: Yes. Our intention is not to shut down the district every weekend, but we do see certain events where it will be more controlled. [LB1130]

SENATOR MCGILL: Okay. [LB1130]

SENATOR KARPISEK: Thank you, Senator McGill. Senator Brasch. [LB1130]

SENATOR BRASCH: Thank you, Chairman. And thank you, Mr. West, for your vision here. It sounds very exciting. Again I go back to I knew the business district here 20-some years ago where there were many retail options right here in Lincoln that have come and gone. And I see O Street's businesses are still coming and going, and I have a great concern on that. And then looking at your expansion here, you've already...you have renters. You have everything is set up good to go, just this. Is this the last piece of the puzzle? You know, is the airport in line with this? Are there more flights coming in? Are there...is there a cab service now? We're working on that. (Laughter) You know, when we start to position ourself to look and feel like Atlanta or San Antonio or Louisville or, you know, other areas, you know, are we prepared to greet our guests with all the amenities that they may be seeing at other venues nationally? Is that a done deal? [LB1130]

BRETT WEST: I'm in favor of all those things: more flights, more everything. I think this district we are proposing more housing, we're proposing additional hotels, and there are two hotels coming up in the area next to this. So we hope to encourage more people to be walkers, be smart about this area. So as far as more cabs, you know, I don't have those answers right now. We have a long way to go. [LB1130]

SENATOR BRASCH: And one final question. There is current apartment housing, I believe, in the Haymarket area here. [LB1130]

BRETT WEST: Yes. [LB1130]

SENATOR BRASCH: Has that out...is there a waiting list there? Is it full to capacity so there is need and then the... [LB1130]

BRETT WEST: There's a substantial need. [LB1130]

SENATOR BRASCH: The feasibility has all been...the math and the... [LB1130]

BRETT WEST: We are putting our own private dollars behind this, along with our equity partners, Chief Industries, who is here with me. And we wouldn't be investing if we didn't believe in this project. The downtown apartment housing is over 95 percent full, which

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isn't even enough to allow people to move around. The university is growing by 30,000 students--a great driver. [LB1130]

SENATOR BRASCH: And without a grocery store here... [LB1130]

BRETT WEST: We're working on that. [LB1130]

SENATOR BRASCH: Working on it. Okay. Very good. [LB1130]

BRETT WEST: We are working on that. [LB1130]

SENATOR BRASCH: Okay, very good. Excellent. I have no other questions. Thank you. [LB1130]

SENATOR KARPISEK: Thank you, Senator Brasch. Any other questions? Seeing none, thank you, Mr. West. [LB1130]

BRETT WEST: Thank you. [LB1130]

SENATOR KARPISEK: Next proponent. [LB1130]

DENNIS HOTH: Good afternoon, Chairman Karpisek and members of the General Affairs Committee. My name is Dennis, D-e-n-n-i-s, Hoth, H-o-t-h. I'm the managing member of the Southport West Partners, LLC, which is the developer of the Southport West project in La Vista, Nebraska. I'm here today to support LB1130 which would provide for an entertainment district license under the Nebraska Liquor Control Act. As the developer of a mixed use regional-type development such as the Southport area in La Vista, we have seen the need to provide an entertainment district venue for convention, conference attendees, tourists, travelers, as well as local patrons, to gather, socialize, and to enjoy fine restaurants, entertainment, and clubs. The element of socialization is a vital component to help our fine hotels, shopping venues, and conference center attract regional meetings, conventions, and tourists. Competition for these events is intense and requires more than just quality meeting space and nice hotels. There also needs to be a venue for socialization away from the meeting space itself. The entertainment district provides that venue and will also help us attract top restaurants and adding to the ambiance of the entire mixed use development. Again, as a developer of regional mixed use developments, we see the need for the entertainment district to host gatherings for the public to enjoy, such as live music, art festivals, fund-raisers, and special performances. These events augment the experience for visitors to the area and help promote local organizations and causes. We are currently developing an entertainment district in the Southport West development in La Vista with our partner, The Cordish Companies, out of Baltimore, Maryland. Cordish is the leading developer in entertainment district venues in the United States. They have done several

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very successful entertainment projects in Baltimore, Maryland; Louisville, Kentucky; and Kansas City, Missouri. The Kansas City project, called the Kansas City Power and Light District, and I'll refer to that as KCPL, might be more familiar to Nebraskans, as many of us have traveled to Kansas City to enjoy the benefits of the district. KCPL is a very urban district and had many challenges in its development. Our entertainment district at Southport will be called Live! at Southport West, and will emulate many of the characteristics of KCPL. The entertainment area is located in a highly controlled courtyard in between a wide variety of restaurants and bars called The Living Room. The name accurately describes the type of atmosphere our entertainment district shall convey. We want this venue to try and replicate the feeling of, one, being in your own living room, relaxing and socializing with friends and family and enjoying a great sporting event on TV or a fantastic live band or concert. The security within The Living Room is provided by third-party security firms and off-duty police officers. However, the true security is usually the patrons themselves. We have found that these venues become self-regulating. In this environment, people tend to act very respectful, set up an environment of positive socialization, because they feel as if they're truly in their own living room. This, coupled with excellent security which is provided by the developer, has produced an excellent experience at KCPL. KCPL, since its inception, has never had any violent crime committed anywhere within the KCPL district. As a matter of fact, KCPL has become statistically the safest place in Kansas City, Missouri. Some other residual benefits is that the tax base around the KCPL district was increased by over \$23 million since its development. The permanent resident population living close to the district has increased from 5,000 to 19,000 residents. People want to live close to the district because it's fun and it's safe. Some of the events that are featured include numerous high profile local, national, and international sporting events, live concerts, featuring many local, regional, and national acts, art shows, dance recitals, and many civic events. In summary, we're very excited for the people of Nebraska. They have had to travel to other larger markets to experience this entertainment opportunity and now, with the hopeful passage of LB1130, they'll have the opportunity to experience this by staying in Nebraska. We are also excited for the Haymarket area, as well as Southport, and hope this opportunity will make for many exciting venues throughout Nebraska. Thank you for the opportunity to speak before you today. [LB1130]

SENATOR KRIST: Thank you, sir. [LB1130]

DENNIS HOTH: If you have any questions, be happy to... [LB1130]

SENATOR KRIST: Any questions? Seeing none, thank you very much. [LB1130]

DENNIS HOTH: Thank you. [LB1130]

SENATOR KRIST: Next proponent. Mayor, how are you? [LB1130]

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DOUG KINDIG: (Exhibit 6) I'm good. How are you? [LB1130]

SENATOR KRIST: Good, sir. [LB1130]

DOUG KINDIG: It's always good to see a friendly mayor sitting up here. It makes me feel much more comfortable I want you to know. [LB1130]

SENATOR LAMBERT: Thank you, Doug. [LB1130]

SENATOR KRIST: He's not friendly anymore. [LB1130]

DOUG KINDIG: Been jaded already, huh? [LB1130]

SENATOR LAMBERT: Gone to the other side. [LB1130]

DOUG KINDIG: Senator, I understand, so. Good afternoon, Senators and members of the General Affairs Committee. My name is Douglas Kindig, K-i-n-d-i-g, and I serve as the mayor of the city of La Vista. I'm here today to speak in support of LB1130, which will provide for an entertainment district license under the Nebraska Liquor Control Act. It's no secret that the city of La Vista has been working with The Cordish Companies, one of the largest and most respected developers in the world, who has announced plans to develop an upscale outlet center and entertainment district in La Vista's Southport West development. It's located at the Interstate 80 and Harrison Street exchange. The Cordish Companies' vision has created a regional shopping and entertainment destination that will build on the success of Cabela's and the John Q. Hammons Embassy Suites/Marriott Courtyard/La Vista Conference Center complex already located at that development. Similar to their Kansas City Power and Light District development, which I'm sure you're familiar with, the entertainment district, Live! at Southport West, will include a mixture of dynamic national and regional restaurants and entertainment venues surrounding a live events plaza. Throughout the year, the events plaza will feature a variety of free events for residents and visitors, including live music, art festivals, and special performances. The first phase of the development for both the retail and entertainment areas will total over 435,000 square feet with a construction budget totaling \$114 million. The project has been master planned to include additional phases of retail and entertainment development in excess of another 100,000 square feet. Not only will the development create hundreds of new jobs, including both construction jobs and permanent jobs, but a significant number of other positive economic impacts are sure to follow as well. We have had a number of internal discussions regarding the need for legislation that would allow alcohol consumption in a commons area, as it seems to be an element of successful entertainment districts. It is understandable that there may be concerns about misuse or safety/security. However, we believe that the bill contains appropriate safeguards to protect against the misuse of the license or from the entertainment districts getting out of control. I appreciate the

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opportunity to speak to you this afternoon, and I thank you for your consideration. I believe that we all have the same goal of creating jobs, improving our economy, and continuing to make Nebraska the place that people want to work, live, play, and visit. Bringing people to Nebraska and keeping our best and brightest minds means keeping pace with the other areas of the region that have enacted similar measures, and as such I would encourage you to support in moving this legislation forward. I would like to answer any questions you have, especially as the local official who will be responsible for making sure that we make this safe for our public and that we don't break any of the alcoholic compliance laws as far as with minors. At this time, I'd love to take any questions if you have any, Senators. [LB1130]

SENATOR KRIST: Any questions? I think you did too good a job. Thank you. [LB1130]

DOUG KINDIG: Thanks, Senator. [LB1130]

SENATOR LAMBERT: I just know the work that Doug does, in the years I was able to work with him, that it'll be topnotch and it will be run right. [LB1130]

DOUG KINDIG: Thank you, Senator. [LB1130]

SENATOR KRIST: Welcome, Jack. [LB1130]

JACK CHELOHA: Good afternoon, Senator Krist and members of the General Affairs Committee. My name is Jack, J-a-c-k, Cheloha, last name spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I want to testify in support of LB1130 this afternoon. First of all, I'm going to start off by thanking Senator Coash for introducing this bill and opening the allowance of entertainment district licenses to all cities across our state. Thank you, Senator, for including the city of Omaha. The issue of entertainment districts has come up in discussions in the city of Omaha for quite awhile now. It really came to the forefront in I believe about 2003 when we opened up the then called the Qwest Center, now it's the CenturyLink Center in Omaha, or convention center and sports arena. Omaha doesn't have, at this point in time, any specific or definite plans, but there are a number of natural locations within our city or community that would be a potential for this entertainment district. We can look to, for instance, the Riverfront where we have various restaurants, likewise the CenturyLink Center which is in close proximity to the TD Ameritrade ballpark which hosts the College World Series. Also our Old Market is very close in terms of those two venues. There has been a major, major undertaking and development of an area called Midtown Crossing, which to some of you, if you're not from Omaha, is essentially around the Mutual of Omaha complex. And then there's even other locations that are set up with different venues where they may have various reasons to set up such an entertainment district. If we did move forward with this, we would appreciate the opportunity. This could be an important and valuable tool for economic development, but also just for entertainment and peace

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of mind for our own citizens, and for those reasons we appreciate having a chance to adopt an entertainment district license. I'll try and answer any questions. [LB1130]

SENATOR KRIST: Any questions for Mr. Cheloha? Thank you, Jack, for coming. [LB1130]

JACK CHELOHA: Thank you. [LB1130]

SENATOR KRIST: You're back. [LB1130]

SENATOR KARPISEK: Thank you. Welcome. [LB1130]

JOE KOHOUT: Chairman Karpisek and members of the General Affairs Committee, Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing today on behalf of the United Cities of Sarpy County, which is a coalition of the four mayors, the cities of Springfield, Gretna, La Vista, and Papillion. You've already heard from Mayor Kindig today, but I wanted to go on record. The other three mayors voted this morning to unanimously support this. One thing that I would highlight for the committee is two years ago this Legislature enacted LB1018 which was a unique financing mechanism that would allow for the Transformational Tourism and Redevelopment Act. And when that bill was considered, it was this kind of unique thinking that was really hoped for when that bill was passed, and that was a priority for the five mayors at the time. And this Legislature and Senator Coash, with foresight, prioritized that bill. And so this is a next step in that process is NATTRA first and now the entertainment district. So with that I would stand for any questions that you might have. [LB1130]

SENATOR KARPISEK: Thank you, Mr. Kohout. Any questions? Seeing none, thank you. Next proponent. [LB1130]

LYNN REX: Thank you, Senator, members of the committee. My name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We strongly support this bill. We want to thank Senator Coash for introducing it. I think you can be assured that municipalities will not exercise the option to put an entertainment district like this in place without making sure that all the protections are there and the public is safe. We think this is exciting for the state of Nebraska and certainly for many of our cities across the state. We know that this will help not only in terms of the development but also make people come to Nebraska. And instead of a lot of Nebraskans going down to Kansas City or elsewhere, hopefully they'll be coming up to La Vista, coming up to Lincoln, Omaha, and other areas in this state. I'd be happy to respond to any questions that you might have. [LB1130]

SENATOR KARPISEK: Thank you, Ms. Rex. Any questions? Thank you. [LB1130]

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LYNN REX: Thank you. [LB1130]

SENATOR KARPISEK: Any other proponents? Welcome back. [LB1130]

HOBERT RUPE: Welcome back, Senator Karpisek and members of the General Affairs Committee. My name is Hobert Rupe. I'm the executive director of the Nebraska Liquor Control Commission. It was questionable whether we would be testifying in support, in neutral, leaning towards support, or just supporting. I'm going to give that primarily offer...or creating this act to Senator Coash. He was...he engaged the commission early on once this was brought to him. If you don't mind me telling stories out of school, he said, you know, let's bring Hobie in before he has to tell us no, later on, that you can't do that under the existing statutory scheme. Broadly, we look at this as very much a collaborative effort between the cities and the state and the commission. You know, the cities are going to be the entities designating these as an entertainment district, and then they're going to go through a licensing. All the licensing is going to allow them to do, it's going to be more like an additional right upon your existing liquor license. It's going to have a common area which is going to be defined by the city where the surrounding licensees can then have sort of joint sale and service privileges in that common area. So you're not going to have, as was described earlier, a maze of sidewalk cafes separated by 4-foot fencing. You're going to have one area where you're going to seamlessly transition from one to the other. That's one reason why this bill is required, because currently you can't do that. A liquor license exists in one area and in one specific geographic location, and once you're out of that area, you know, you can't continue to consume or sell or you're going into another license. What this does is has this common area. So the way it was presented to the commission, and working with Senator Coash and the other individuals, is you're going to have these individual licenses around and then there's going to be a common area, a common walkway between them, which is going to be a controlled access either through the one open side or through the bars, so you're going to have control of access for checking for minors and then you're going to have that common area where you're going to have multiple licensees will have service. When that was first brought to our attention we, of course, go, okay, let's look at around the nation who else has these type of things, what kind of concerns. I can tell you that I spoke personally with the director for enforcement for the state of Missouri, because, you know, I always look for which one is closest. Everybody kept using Kansas City Power and Light District. And, you know, their response was, we haven't had any problems. You know, you'll have some things. Unfortunately, no liquor license is perfect. But it wasn't that they had anything in excess of other licensees. In fact, they were generally more compliant than other licensees. A lot of that, I will credit, goes to the type of licensee which goes in there. If you're looking at high-end restaurants and, you know, higher-end cocktail lounges, coffee shops, you're looking at a price point difference which is going to bring a different clientele where you're not going to have the same problems, you know. So we worked very closely with the city of Lincoln in drafting this to make sure that the cities' and the state

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concerns would be met. As you said, there is...if someone screws up, they're going to be in front of the commission. They're going to be...their license is going to be subject to suspension, cancellation, or revocation. In this case there's even an additional thing. The city, if they have problems, can revoke that license themselves through the entertainment district which would go away with all the rights. So I think there are a large number of safety concerns that were placed in the statute as it's drafted. I think, as Senator Bloomfield brought up, you know, minor access. At least when this first was brought to our attention, looking at downtown Lincoln or the downtown Lincoln area, I'll say right now, Lincoln does a very, very good job about limit...about...they have very strong doors, is what they're called in the industry. You know, they make sure that minors aren't coming in and getting access either at the bars or at the restaurants. You know, they've got floating people in there making sure. A large part of that is because the city of Lincoln, for instance, does a very good job about working with their local bar owners. And so I think, you know, that there are significant safety concerns in place there. And the commission would look at this, as I brought up many times, the act was drafted in 1935, and it reflected 1935 thinking and a 1935 business model. In this case here, you're seeing the business model morphing. I think this is a time that we need to look at perhaps updating the act to allow this type of activity, but making sure that the city and the commission also have their controls over what's going on in that. And I think this bill does have that, and it really is a, I think, a city/commission partnership on the regulatory side. Just to answer a couple of questions that came up and hopefully I can look at this. Senator Brasch asked about cabs. That was a bill last week, in the Transportation actually, where that issue was brought up, and I believe Senator Avery has a bill where he is trying to get more cab access and to reduce some of the hurdles to making sure there's cab access. And I'd be happy to answer any questions, you know. From an enforcement standpoint, the commission thinks that the existing bill and working with the city should be, you know, any safety concerns would be taken care of. [LB1130]

SENATOR KARPISEK: Thank you, Mr. Rupe. Senator Krist. [LB1130]

SENATOR KRIST: Just a couple of general concerns, and I know the cities will take care of in terms of jurisdiction. But if the NCAA comes in and says that that particular area that you're running is a common mall type structure, cannot be open during the NCAA activity, it'll be a consideration. And obviously that will have to be an allowance where, if there is an issue like that, then it won't be open on those particular days or during those activities, whether it's the swimming event at the CenturyLink or the College World Series or whatever would happen in Lincoln. My other concern is, having participated in many of these things around the world, businesses should be allowed not to participate even though their storefront faces the activity. I've been in places where there's some real upscale restaurants and bars that don't open their doors to the outside because they won't give you a plastic cup to go sit out there while other places around that mall...so it shouldn't be exclusive to just the people who will participate, because I

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think you're...there are some issues there with people who might be in those malls. So is that jurisdiction going to fall to the cities? [LB1130]

HOBERT RUPE: Well, partially. In this case here, let's say at this location, let's say Hobie's Chop Shop is a high-end steak place, and I either don't want to go out...I just want to...I like being there but I don't want involved in that one. I would get my normal license. I just wouldn't ask for the additional rights to sell into this common area. [LB1130]

SENATOR KRIST: Okay. [LB1130]

HOBERT RUPE: You know, I mean nobody is making them do that, so at least from our perspective that might be part of their lease arrangement with the developer. You'd have to ask them. But from our perspective, all this is allowing is if somebody wishes to get the additional ability to sell there, there's an additional license on top of their existing license which would allow them to sell in that specific area as designated by the city in that entertainment district. [LB1130]

SENATOR KRIST: And therein lies the rub I think. You cannot restrict...or you can...I mean I'm sure you wouldn't make it a requirement for a lease that you had to participate in that particular thing. That would seem economically self-defeating, so to speak. So in that case then it does become both internally monitoring in terms of the lease capability and also the city and the jurisdiction, so you're envisioning that there's a license. Then there's a license to participate in the outside activity. [LB1130]

HOBERT RUPE: Yes. [LB1130]

SENATOR KRIST: And so it falls to that in terms of jurisdiction. Great. [LB1130]

HOBERT RUPE: Yes. [LB1130]

SENATOR KRIST: Thank you very much. [LB1130]

SENATOR KARPISEK: Thank you, Senator Krist. Senator Brasch. [LB1130]

SENATOR BRASCH: Thank you, Chairman, and thank you again, Hobie. And I'm just trying to determine the scalability of this entertainment license. And is it feasible that a community like Bancroft, Nebraska, here, that's got a bar with karaoke, great entertainment here, and another...or the Czech Festival or the...what festival do you have there in Wilber? [LB1130]

SENATOR KARPISEK: Czech. [LB1130]

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SENATOR BRASCH: Czech Festival. Correct. That...and it says closed to vehicular traffic when used as a common area. So it could be a business district. What makes...you know, scalability. Can it adapt to our smaller rural communities across the state or are we just talking, you know, tourists for larger, more urban areas? [LB1130]

HOBERT RUPE: I think the key thing you're going to look at is, one, depending on who has control of the road. You know, if it's a private access road, you're dealing with it differently than if it's a state highway or a city road regarding who can have what access to there. Now, currently, like for...and I'll use Czech Days as an example. I mean Czech Days is a perfect example. There's already a tool in the act, the special designated licenses, which is allowed to have those street festivals where you close the streets down for that time frame. What this is looking to do, and I think that when they're going to be closing now is they call it, Canopy Street and some of the other ones, they were probably utilizing SDLs. This is more of that sort of that common courtyard area which is enclosed, you know, at least probably on three or partially more sides, by the existing licensees to have a common area in that one, so. [LB1130]

SENATOR BRASCH: But it could have vehicular traffic, closed to traffic when used as a common area. [LB1130]

HOBERT RUPE: Yeah. Yeah. [LB1130]

SENATOR BRASCH: So it's not limited to. There could be a road that runs through this... [LB1130]

HOBERT RUPE: You could have an access road going... [LB1130]

SENATOR BRASCH: An access road or something that... [LB1130]

HOBERT RUPE: Yeah. I mean it's going to be...but like I said, normally to have this you're going to have to have...you know, it's going to have to be sort of a privately owned area anyway, at least initially, you know, at least as it was described to me how we were looking at the locations we're looking at right now. [LB1130]

SENATOR BRASCH: So it would not change our local festivals across the state where it would be more convenient for them to call their main street an entertainment center, because they do have retail, they do have alcohol, they do have... [LB1130]

HOBERT RUPE: I think in that case they're not going to be looking to have the liability issue. You know, I think you have to look at the area as to who has access to it. If it was wide-open access, I'm not sure you would want an entertainment district in that, because, you know, you're going to be responsible for if some other kid is on there, and there are cars driving in that area, you decided it's an entertainment district and they've

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got alcohol in their car, you're going to be in...your license is going to be in possible jeopardy for allowing alcohol to be consumed or possession of a minor in that area here. So, you know, I think you...plus, I'm not sure that those licensees are going to want to pay that additional fee because each of those licensees is going to be paying basically double their existing license fees for those rights. You know, traditionally, right now, a Class C liquor license costs \$300 for the license fees. The cities can charge up to twice that as an occupation. For all intents and purposes, let's say a Class C liquor license in Lincoln, Nebraska, costs \$900. This right for an entertainment district is an additional \$300, also subject to that occupation tax. So instead of \$900, they're looking at \$1,800 just for the rights to sell out, you know, in your own place and in that area. So, you know, I don't think, you know, that you're going to be looking at small towns are going to be wanting to do that, where there on festivals I think the proper way it's utilized the SDLs for those times. Now that doesn't say a smaller town couldn't develop a smaller version of this, surrounding...you know, a courtyard area surrounded by two or three licensed bars with a coffee shop or something elsewhere. That would probably be very much within the same vein. The scale would probably be smaller but it would be definitely allowed by the statute. [LB1130]

SENATOR BRASCH: Okay. Very good. I have no other questions. Thank you. [LB1130]

SENATOR KARPISEK: Thank you, Senator Brasch. Senator Bloomfield. [LB1130]

SENATOR BLOOMFIELD: Thank you. I want to follow down Senator Brasch's trail just a little further. Do you see any way that at some point down the road the inspection people would say that that is an area, whether you intended it to be or not, instead of having your Fourth of July where we close down both ends of the street and have a street dance out there. Is the Liquor Control Commission going to come in and suddenly say, well, that's an entertainment center and we need the extra \$1,800? [LB1130]

HOBERT RUPE: No. Those are already done under SDLs, Senator. Almost every, you know, Fourth of July, all those places where they're closing the streets down and having consumption there with the fencing, all that kind of stuff, those are already licensed events. [LB1130]

SENATOR BLOOMFIELD: I have seen mission creep before. [LB1130]

HOBERT RUPE: Yeah. But I'm saying here, the thing about it is you have to realize an entertainment zone has to be, by the statute the city is the originating. The city or the local governing body is originating the order, saying we believe we want to do it here; we wish for these licensees in this area to have the common rights in this designated area, and then this allows the commission to issue a license to allow that. Because otherwise, you know, you can't have sort of a common area where liquor licenses sort of merge. [LB1130]

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SENATOR BLOOMFIELD: Okay. Thank you. [LB1130]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Any other questions? Seeing none, thank you. [LB1130]

HOBERT RUPE: Thank you. [LB1130]

SENATOR KARPISEK: Any other proponents? Any opponents? Anyone neutral? Seeing none, Senator Coash to close. [LB1130]

SENATOR COASH: Yes, I will. Well, thank you to my colleagues on this committee for indulging all the testifiers, and I hope we learned a little bit about what this is supposed to do and where we'll be going if we could put this into our statute. This is a tool. This is not a new concept. There are lots of communities who do things like this. I think it would be great. It would help us compete, help us keep up, and we're starting to be a "big kid" city now. So this is what "big kid" cities do, and I...there's lots of communities that would do this. I was worried about responsibility as well, and I think what we have done in this bill is actually added responsibility by that additional license. There's a strong element of local control and lots of people have stakes in putting this together. Local government has a stake. Private developers have a stake. The community has a stake. Business community has a stake in this. Everybody would want to see this work and I think we have the mechanism in place to do that. I believe there's a high degree of accountability here through that local control piece. If the city came in and said, you know what, we're not going to do this unless you as the developer put in security measures that we approve, then they're not going to have an entertainment district license until those security measures are put in place. The locals can restrict the time. They can put in guidelines as to when and how. Just to make sure that a couple questions were answered, Senator Krist asked about participation. One hundred percent voluntary. If a business says I don't care for the liability, it doesn't fit my business model, they don't have to participate in this extra license even though they may qualify because of their closeness to...proximity to the common areas. Senator Brasch, you brought up some of these festivals and things like that. This statute is designed for places where the entertainment is going to be more permanent, where there's always going to be options and different vibrant options for the community. The smaller communities that do one or two a year, they're not going to want to do this. They're going to want to continue to do what they're doing, which is get that special designated license which is time specific for the Fourth of July, for the five-day Czech Festival. They're going to continue to do that because that fits those types of events. So I would leave it at that and thank the committee for their questions and their time, and look forward to working with you on this. [LB1130]

SENATOR KARPISEK: Thank you, Senator Coash. Any questions? Senator Bloomfield.

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[LB1130]

SENATOR BLOOMFIELD: Just a quick little question here. I see we've got a \$1,000 fiscal note. [LB1130]

SENATOR COASH: Yeah. Hobie did that. [LB1130]

SENATOR BLOOMFIELD: Well, I understand why he did it, but I'm just wondering if we can't get a little piece of that to go to the state to eliminate that fiscal note and maybe make a dollar or two? [LB1130]

SENATOR COASH: (Laugh) I've got to work with Hobie on that. But this is a short one-time reprogramming fee, and what I'll tell...and maybe we can find a way to get some of these...right now, as the bill is written, the license, the actual license fee actually goes to the local municipality. But Hobie will just have to get a smart computer guy in there. [LB1130]

SENATOR BLOOMFIELD: Maybe we could see if they would share. [LB1130]

SENATOR COASH: Yeah. [LB1130]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Senator Krist. [LB1130]

SENATOR KRIST: Along the lines of my concern, and you answered part of it, there will be, and I trust Mayor Kindig and the mayors around the area and the local municipalities to think about this, but the developer is going to want to set up an opportunity for people to participate in these things. Ultimately there will be a time when either the Amish will have a conference--I'm being facetious--or the NCAA comes in, or there's another activity, and you will not be able to run those liquor licenses there. And there needs to be some forethought in doing that. I mention that not necessarily at the state level, but as people incorporate these into their local, having worked for a couple of years from a distance and watching the NCAA and their requirements, might be the greatest area that you...maybe exceeding the Kansas City development area, but if you have this special event that comes in and you're using that, the Qwest Center--now the different name, but the Qwest Center--you may not be able to do that. There has to be an agreement there so that they can back off. [LB1130]

SENATOR COASH: I did look into that a little bit, Senator Krist, and we'll certainly clarify that. I know that the local communities will want to do that. But the NCAA maybe will have some control over what they'll allow within the venue. Okay? But once you leave that venue, it's up to the owners and everything like that. I structured this particular bill very carefully because I knew that there will be certain community-specific needs that I didn't think I could address every one of them within the statute. And so following how

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we have liquor applications, the license applications going from the city council over to the commission seemed like a good way to do this, because then it allows those concerns, whether they be security, whether they be access, timing, events, whatever they are, those concerns are not going to be the same in Lincoln, in Omaha, wherever these might be. And so those concerns I believe are best left to the local governing body who can address those, and then they can address them through ordinance. They can say, well, because of those concerns we're going to draw these boundaries around this license, which is a little bit different. So I think it's a good approach. It's certainly not new, and I'll thank the committee once more. [LB1130]

SENATOR KARPISEK: Thank you, Senator Coash. Any other questions? Seeing none, thank you. That will end the hearing on LB1130 and the hearings for today. See also Exhibit 7. [LB1130]