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Transcriber's Office

General Affairs Committee
March 04, 2013

[LB444 LB456 LB653]

The Committee on General Affairs met at 1:30 p.m. on Monday, March 4, 2013, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB444, LB456, and LB653. Senators present: Russ Karpisek, Chairperson; Colby Coash, Vice Chairperson; Dave Bloomfield; Jerry Johnson; Bob Krist; Scott Lautenbaugh; John Murante; and Ken Schilz. Senators absent: None.

SENATOR KARPISEK: Okay. We've got five members so we're going to get started. And welcome to the General Affairs Committee. I'm Senator Russ Karpisek of Wilber, and I am the Chair of the committee. Members who will be joining us or are already here, Senator Murante of Gretna will be to my far right. Senator Dave Bloomfield of Hoskins is here with us. Next to him will be Senator Lautenbaugh of Omaha. Then Vice Chair of the committee, Senator Coash of Lincoln. Josh Eickmeier is our committee legal counsel from Seward. To my far left is Christina Case, our committee clerk. Then Senator Johnson of Wahoo. Next to him will be Senator Schilz of Ogallala, and Senator Krist of Omaha. Pages helping us today are Cicely Batie and Colton Wolinski. Thank you. Members might be coming and going throughout the day. We've got other hearings up. I'll have to leave at some point. So don't take it personally. It's probably not your bill, they have something else going on. If it was my bill, it probably would be me. 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're planning on testifying in any capacity, please pick up a sign-in sheet that is on the table at the back of the room at both entrances. Please fill out the sign-in sheet before you testify. When it is your turn to testify, give your sign-in sheet to one of the pages or to Christina so that they can give it to Christina. I'm just supposed to read off the sheet, but...this will help us make a more accurate public record. If you have handouts, please make sure that you have ten copies for the page to hand out to the committee. When you come up to testify, please speak clearly into the microphone. Please tell us your name and spell your first and last name. Also please tell us who 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 take them out in the hallway. Finally, while we do allow handouts, we do not allow visual aids or other display items. If you need more copies or anything, please get the pages' attention and they will be happy to help you out. We will begin today's hearings with LB444 by Senator Krist. Welcome, Senator Krist. Go ahead and start whenever you're ready. [LB444]

SENATOR KRIST: Thank you, Senator. Good afternoon, Senator Karpisek and members of the General Affairs Committee. For the record my name is Bob Krist, that's B-o-b K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha along with the north-central portion of Douglas County which includes the city of Bennington. I appear before you today in introduction and support of LB444. LB444 requires mandatory training for bartenders, wait staff, clerks, and security personnel as this is a

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valuable tool to help ensure public safety, health, welfare, and encourage temperance in the responsible consumption of alcoholic products. The bill also requires that there be an employee or authorized representative of the licensee who is at least 21 years old on the premise at all times. As the bill states, beginning November 1, 2014, a retail licensee shall only employ a person to engage in the sale or service of alcohol in management or in security of a licensed premises or to be in any other way responsible for verifying a customer's age if such person or persons has successfully completed a course and received a certification from the Nebraska Liquor Commission. The person shall show proof of certification to the retail licensee by presenting the certification issued by the commission. The retail licensee shall maintain on its premises...licensed premises a copy of each employee's required certificate. Any retail licensee who employs a person in violation of this section may have its license suspended, cancelled, or revoked by the commission. Also LB444 makes certification valid for three years at a cost of \$15 per applicant. That's the prepared testimony. Now I'm going to tell you that the opposition to this bill that will come up will tell you, don't tell us how to do our business. It's too cumbersome. It costs too much money. We know how to administer the program. We have our own certification programs. And a myriad, I'm sure, of other things. Those that are in support of it will say, we have to do something. We have to do something to make sure that a 19-year-old is not put in a position to sell on-sale--that is, open the beer bottle, give it to their buddy--on-sale premises to someone without having some kind of check and balance. What we have had happen in this state over the last few years is a series of issues that result from a 19-year-old succumbing to peer pressure and serving alcohol on premise to another 19-year-old or someone less than 21. I don't know about you, but I have been in a peer-pressure situation before. Sometimes I've been strong enough to go forward, sometimes I have succumbed to that pressure. I think it's unfair both to the person who's put in that position and the person who would put others in that position. Historically what we had in the state of Nebraska was a drinking age of 21. And then we changed it to 19. And then we went back to 21. And in the course of doing such, we never raised the wait staff's age to 21 because we were putting people out of jobs. Well, I'm as strong as anybody for job creation and keeping jobs in place. But if jobs are going to be there for a 19-year-old to serve alcohol, then they have to have some check and balance. I bring to your attention also that a 16-year-old can go into an establishment, grocery store, and stock and move alcohol around. But they need to be under the supervision of someone who is 21 or older on premise all the time. And that's where part of this comes from. And I'll say this as well. There isn't very much in this bill that can't be changed, can't be negotiated. The price of the certification, the length of certification, the phase-in date by which the 1 November date of 2014, all of those things can be changed. What can't change, in my mind, is the seriousness that we bring to the table to make sure that we don't put 19-year-olds in a position to sell alcohol on-sale--that is open the beer bottle, hand it to their buddy who's 19--without having some kind of supervision on premise. With that, I would take any questions that the committee might have. [LB444]

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SENATOR KARPISEK: Thank you, Senator Krist. Senator Coash. [LB444]

SENATOR COASH: Thank you, Chairman. Thank you, Senator Krist. I have a couple of questions because I worked my way through college as a bartender so... [LB444]

SENATOR KRIST: As did I. [LB444]

SENATOR COASH: So I'm fairly familiar but, actually, I...okay. The training...I'm going to start with questions on the training requirement. [LB444]

SENATOR KRIST: Okay. [LB444]

SENATOR COASH: Do you specify in your bill who has to provide it? In other words, does the Liquor Control Commission have to do this or provide the training or can this happen on a local level? And the reason I ask that is Lincoln has a pretty well-vetted server training program here in our community that seems to be working well. So I'm wondering how your bill would affect their ability to do that here in our community if all that gets thrown out the window and they have to do something different, if that is allowable. Can you speak to that? [LB444]

SENATOR KRIST: We don't specify that the state has to administer or control the certification process. We do say that the Liquor Commission has to approve the certification process and that there be a standardized testing mechanism, preferably computer based, and that the certification be given at the state level. Now when you think about it, if you go through the certification in Lincoln and it meets the state standard and you go home to Scottsbluff after you finish college, your certificate would follow you no matter where you went. It would be a statewide. And some states recognize reciprocity for other certifications and could be done. But no, I don't want to make those programs defunct. If they're working and the commission recognizes them as good certification programs, they should stay in place. [LB444]

SENATOR COASH: Okay, thank you. And then I'm going to...with regard to the provision of the bill of the person who's 21 or older--and maybe this would be a comment on the current law or how it would change--how does it...I'll just give you a hypothetical and you tell me how it would play out if your bill became law. In the restaurant I used to work at, the bartenders were always 21. But I was a server and I was 18. I didn't open the beer bottle, but I delivered it to the customer. Is that going to change because of your bill? [LB444]

SENATOR KRIST: No. No, it means somebody on premise is 21 or older that can look out for the licensees and the total management of the alcohol-delivery system. [LB444]

SENATOR COASH: Okay. All right, thank you, Senator. [LB444]

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SENATOR KRIST: And which, by the way, is the same way that if you're stocking and the 16-year-old that I mentioned in a grocery store, there has to be somebody 21 there to supervise. [LB444]

SENATOR COASH: Okay. Thank you. [LB444]

SENATOR KARPISEK: Thank you, Senator Coash. Any other questions? Senator Johnson. [LB444]

SENATOR JOHNSON: Thank you, Chairman. Thank you for bringing this bill. To follow-up a little bit on Senator Coash's question on this, the establishments have some sort of a certification that they conduct, what you were referring to in Lincoln. Is that what you were referring to? And some of the opposition is going to say they have their own certification programs. So is that what he was addressing? [LB444]

SENATOR KRIST: Right. The certification program that he's referring to in Lincoln. And I'll let Hobie Rupe talk to it. [LB444]

SENATOR JOHNSON: Okay. [LB444]

SENATOR KRIST: And he'll give you an evaluation of what the program actually is. I would assume it would meet the certification process for the state. And then at that point the state would either issue a certificate based upon that training or require them to do maybe some additional training. But they would certify the program in place. [LB444]

SENATOR JOHNSON: Okay. [LB444]

SENATOR KARPISEK: Go ahead. [LB444]

SENATOR COASH: Is it not true, Senator Krist, that the certification program in place in our community is mandated by city ordinance? [LB444]

SENATOR KRIST: That's correct. [LB444]

SENATOR COASH: So Lincoln is an example of a community who agrees with server training, didn't need a law to implement, they just decided as part of their licensing process...because all these licenses not only go through the state Liquor Control Commission but the local... [LB444]

SENATOR KRIST: Right. [LB444]

SENATOR COASH: ...governing authority. So the...all of the already established

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training programs--and I don't...maybe Hobie can tell us how many other communities have them... [LB444]

SENATOR KRIST: Right. [LB444]

SENATOR COASH: ...are doing so because of local regulation. [LB444]

SENATOR KRIST: The city of Lincoln and the city of Omaha are both doing exactly what we're talking about and they support this kind of certification because it's not going to change the way they're doing business right now; they're going to continue on. What this addresses is the individual bars or restaurants or establishments that don't have a certification program in place or outside of those jurisdictions to make sure that it's uniform across the state. [LB444]

SENATOR COASH: Okay. Thank you, Senator Krist. [LB444]

SENATOR KRIST: And by the way, I'm sorry, but this was...if you remember the priorities of the Liquor Control Commission that were sent out to us before the year started, this was number five on the list. They wanted this kind of program in place. So the commission, I'm sure, is going to come in in support. [LB444]

SENATOR KARPISEK: Senator Bloomfield. [LB444]

SENATOR BLOOMFIELD: Thank you. Senator Krist, we have in our file here a bill from the local legion post that opposes your bill based on the fact that they pull people in to serve at certain events. Are they going to have to train each one of those individuals? [LB444]

SENATOR KRIST: No. There is a misconception with this bill. And I believe where they're headed with this is that they have servers that are going to be less than 21 that bartend or they come in for the special events. This doesn't restrict them--as Senator Coash had asked the question before--it doesn't restrict the folks who are 19 or 20 years old from serving alcohol or bartending. They just have to have somebody in the post that's older than 21 watching out that those...that the regulatory functions are happening the way they can. And I've been to many American Legions and I don't think I've ever seen American Legion customers where you didn't have somebody 21 years of age in the premise. [LB444]

SENATOR BLOOMFIELD: I think they are, as I read their complaint, that they are thinking that everybody has to be trained that may be serving and that's not the case. [LB444]

SENATOR KRIST: That's not the case. And I think if you refer to Section 5, page 5: at

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all times when alcoholic liquor is being lawfully sold or dispensed for consumption on any premises licensed under the state of Nebraska Liquor Control, the licensee shall provide for an employee or an authorized representative of the licensee who is 21 years of age or older to be on duty on the premises. [LB444]

SENATOR BLOOMFIELD: Okay. Thank you. [LB444]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Senator Coash. [LB444]

SENATOR COASH: Thank you, again, Senator Karpisek. Senator Krist, the letter that Senator Bloomfield is referring to, I don't believe that their concern was having somebody over 21. I think their concern is somebody that they would not be able to find...you answered the question. I'm going to withdraw my comment. [LB444]

SENATOR KRIST: Okay. I love it when I answer questions before they're asked. [LB444]

SENATOR KARPISEK: Senator Krist, I want to make sure we got this right. Anyone would have to have the training, they just...everyone would have to have the training. Is that just on-sale? [LB444]

SENATOR KRIST: That's on premise on-sale by the folks who are serving alcohol in an establishment, right. [LB444]

SENATOR KARPISEK: How about off-sale? [LB444]

SENATOR KRIST: I'm going to let Hobie talk the specifics of when they would have to be trained because both Mr. Rupe and legal counsel assisted me in going forward with this. But I think for the record I'll let him answer that question. [LB444]

SENATOR KARPISEK: That's fine. He's back there nodding. And then the... [LB444]

SENATOR KRIST: Can you tell me which way he was nodding so I can...oh, then it's yes. [LB444]

SENATOR KARPISEK: The other part...okay, so a 19-year-old could serve with training but would have to have someone 21... [LB444]

SENATOR KRIST: On premise. [LB444]

SENATOR KARPISEK: ...on premise. Now is that an employee? [LB444]

SENATOR KRIST: According to the bill, it would be an employee or someone who is

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acting on behalf of the licensee. [LB444]

SENATOR KARPISEK: Right. [LB444]

SENATOR KRIST: So I think the definition there has something to do with whether they're actually being paid as an employee. [LB444]

SENATOR KARPISEK: Yeah. Okay. Senator Bloomfield. [LB444]

SENATOR BLOOMFIELD: Thank you. Senator Krist, I'm going back to my letter now. You just stated now, I believe, that everybody that served would have to have training? [LB444]

SENATOR KRIST: Right. [LB444]

SENATOR BLOOMFIELD: Okay. That is, I believe, the crux of the question from the Legionnaires. I'm going to just read the paragraph to you as a question. This bill, if passed, would make it very hard for our legion to find bartenders for events, weddings, reunions, and such. No one legion member attends all functions. We ask for volunteers to tend bars from about 30 to 35 members at different times of the year. Jobs and work prevent us from calling on just a number of people. So all those legion members would have to be trained if they were going to...okay. [LB444]

SENATOR KRIST: I'm going to defer to Mr. Rupe on the technical side. [LB444]

SENATOR BLOOMFIELD: Okay. Thank you. [LB444]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Any further questions? Seeing none, thank you, Senator Krist. [LB444]

SENATOR KRIST: Thank you. Can I sit in my chair if I promise not to ask anything? [LB444]

SENATOR KARPISEK: You know, I don't know that there's any hard and fast rule on that. I just know on some of my bills, I shouldn't be back here. Okay, first proponent. Welcome. [LB444]

HOBERT RUPE: (Exhibit 1) Good afternoon. Senator Karpisek, members of the General Affairs Committee, my name is Hobert Rupe. I'm the executive director of the Nebraska Liquor Control Commission. And I think I'm going to try to answer some of the questions that have come up. But first, I'm going to give you a little history of how we've gotten here so far by training. All right. I think about four or five years ago now, Senator Kruse attempted to get a full-blown dramshop bill passed. As part of that, he had a

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secondary bill which was allowing an affirmative defense to be authorized if the person who had made the sale had passed a certified program approved by the commission. The dramshop bill did not pass. However, the part mandating that we certify training programs did. And so what we've got now is there are ten certified training programs across the state. There should be a...I didn't bring the list of them. I'll make sure everybody gets a copy of them. Most of those are national like TIPS, ServSafe, which are used by many people across the country. For instance, ServSafe is used by almost all members of the National Restaurant Association. To get certified by a program, we have a committee--of which I am a member, so is Sergeant Costello at the Nebraska State Patrol and other members of the staff of the commission--we go through every single program. And when that bill passed, it gave a floor for what minimal standards the program had to meet. And so we go through and basically we have a checklist whether a program meets that list or not. And sometimes, we'll do...oftentimes we'll get them, we'll have to send them back and say, hey, you need to add this, you need to add that. A lot of times the national training programs won't have the Nebraska-specific requirements. And so I'll have to say, hey, you have to add this to it or make these changes. And since then, as of today, we've already certified just under...just over 8,200 people have taken a certified training course. Why are they taking them now when there's not a mandate for them is...there's twofold. One is, they are a good...you know, a lot of companies make the decision to send their managers, their bartenders, their wait staff through a training program. The other side of it is, the commission for the last three years has utilized the successful completion of a training program oftentimes as a penalty part for a first offense for a...first time you sell to a minor, first time you sell to service intoxicated, and you're found guilty by the commission, they'll do the suspension which they can pay off with a fine. But then the courts have said that we can place reasonable restrictions upon a license. We will place a restriction that within 60 days of the date of the order, they must show certification that all their employees have taken a certified training program. And those are usually for the offenses where if they were complying with the training program they wouldn't have made the sale, i.e., they would have been able to recognize the signs of visibly intoxicated and stopped the sale. They would have been able to actually read an ID or ask for an ID and stop the sale. Or other times, the only other times I think is that we made them go through when they were deciding to continue to be open at 3 o'clock in the morning since we thought they should be, you know, be reminded that--at that time it was until 1 o'clock--that they should not be serving alcohol after 1:00 a.m. So that's where we've gotten to now. And years ago, there was an interim study that where the General Affairs Committee at the time said, are we going to look at doing mandatory server training? And one of the big complaints about it was there wasn't enough capacity in the system to train this many people. We think that's behind us now. We've got many people who are trained. And one of the ways you're seeing that is, as Senator Coash said, the explosion of local governing bodies mandating training programs. Now the problem with that is, you get some local governing bodies which not only meet the floor level of ours, but exceed it like Lincoln's--Lincoln's is an approved program. But North Platte, for instance, has an

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approved training program in North Platte. It doesn't come anywhere close to meeting the minimum requirements set forth in the statute. Basically all they tell you to do is how to check for an ID and how to do a compliance check. There's nothing about how alcohol affects somebody, how to see signs of visible intoxication, or anything else. So that one is not programmed. And the reason the commission went this way...there is one program where we help fund. And that's the one through the University of Nebraska Responsible Beverage Server Training Program because we want to make sure that there was at least a program available for anyone wherever they were at in Nebraska because some of these places it's hard to find trainers. You know, it's not as big a problem in Omaha or Lincoln but some places with lower populations, they might not have a trainer there. We always want to make sure that option was there so you could take the training program. What we're looking at here and what you've got now is what we've done now. When you take a...those are samples of what happens with somebody who takes one of our courses--and it can be a private...they can take TIPS because that's what Kearney...let's use Kearney as an example, Buffalo County. They've adopted TIPS which is a program. So then they send in the proof that they've taken it right now. They'll receive a card exactly like that, which they can break off, which shows that they've taken that class because as of right now, that's what it's good for. The three years was already factored into the original training requirement bill. So we think that if we were to go to mandatory server training...and as Senator Krist said, we'd more than happy to work on the dates. One of the reasons we chose November 1, 2014, is there are two times during the year when licenses have to be renewed. One is Class C liquor licenses expire on the 31st of October, have to be renewed by the first of November. Those are your vast majority of your bars and restaurants have a Class C. The other ones expire on April 30 and have to be renewed by May 1. So we were trying to pick a date when, you know, where they're used to where a renewal process time would be at that time. The...what we did when Senator Krist approached us about helping work on this, you know, I asked him a very simple question. The first question I asked him was, are you looking for one that's got a large bureaucracy or are you looking for one where we can minimize the bureaucracy? And to his credit, he said let's minimize the bureaucracy. Therefore, unlike what Lincoln is doing where they've had the advantage of linking the requirements of their training to their food handlers permit, we've shifted the burden over to the licensee. The licensee, if they are checked, has got to show proof that their employees--if this bill were to pass--have taken the course. They can do that, they'll be able to take a photocopy of that card you've got in there. It'll be in the employee file if they are in compliance. So we've tried to make it as small as possible. We figure there's probably going to be about two people we're going to need, maybe two and a half depending upon, you know, the influx because there may be about 60,000 that it's going to affect probably. The other question we asked was, who is it going to be applying to? Who should be taking a training program? I don't care if the guy running the sound system has a training program or the guy washing the dishes has a training program. We looked at who's actually responsible for two things: the service of alcohol or checking the ID and providing security because those...and then the manager

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over those two positions. So therefore, we think it would apply to bartenders, waiters, wait staff, the door guys because the door guys are the ones checking the IDs. A lot of times, as you well know, you go downtown Lincoln here, you're not getting your ID checked at the bar, you're getting checked before you're even walking in. And so the security guys are actually the gatekeepers for age consumption. So they've got to be able to do the IDs. What do these programs teach? The requirements of an ID, when to ask for it, how to ask for it, the effects that alcohol has on a body, including consumption rates. Intervention strategies: you know, if you've got a fight starting to happen or you've got something else, how to recognize those signs. Most of these programs are fantastic. Some, I will say, are better than others. I'm not going to say which ones I like, but all of them that we have now meet the minimum standards. So that was what the intention would be is to the people who are actually doing it. The key component is, most of the studies you look at say that if you're looking at controlling and regulating alcohol in a reasonable manner, there's two parts to it. The first part is training. You've got the people who are actually serving it understanding how to sell it, how to not sell it. And then the other part is enforcement; make sure that there is a significant enforcement. Well, I believe there is still a bill pending in front of this committee in LB579 which deals with the enforcement side. This is looking at the first part, the training side. And we tried to make this as low...some states who have done it have gone you must take the state program. I'm not sure we wanted to go down that route. We've got ten private or in this case, I think, eight of these are private entities or companies which have taken it to meet the standards. We have no restrictions about whether a private company wants to have their own training program applied. I can tell you Walmart asked us to approve their program. And we said, yes, it works but you have to change...add this, this, and this for the Nebraska specifics, and they wouldn't do it. So we didn't approve their program. They said, well, we can't change it for Nebraska. This is our one for the nationwide. We're going, but it doesn't deal with the Nebraska-specific laws. All you have to do is do an addendum and you're fine. They wouldn't do it. So we've never taken a position that a private entity or a private company could not have their own internal training program approved. With that, I'd be happy to answer any specific questions. Hopefully, I was able to answer it and give sort of a broad overview of what's brought us to this point on the training side of it. [LB444]

SENATOR KARPISEK: Thank you, Mr. Rupe. Senator Johnson. [LB444]

SENATOR JOHNSON: Thank you, again, Chairman. You've talked mostly about the larger towns, North Platte, some of those. [LB444]

HOBERT RUPE: Uh-huh. [LB444]

SENATOR JOHNSON: This card here--it just came apart. About a week and a half ago I was at our family out at Grant, went to 310 Central. And I don't know if Kimberly Bishop was there or not. But...So she went through the certification of your program...

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[LB444]

HOBERT RUPE: Yes. Yeah, she went through a certified class. [LB444]

SENATOR JOHNSON: ...which was not a hindrance to her evidently. [LB444]

HOBERT RUPE: Yeah. [LB444]

SENATOR JOHNSON: Are you aware of the smaller towns in Nebraska that have any type of ordinances? I'm talking about maybe class two villages, cities. [LB444]

HOBERT RUPE: I can tell you that we just have seen the first county do it. Otoe County just passed a resolution mandating everybody within the county. So that will affect, I believe, some of the smaller, you know, the villages that are within Otoe that aren't covered. So you are seeing a push towards even, you know, smaller places or, in this case, a broader place. A whole county is trying to say everybody would have to do it. That was one of the reasons why we've always maintained the one through the University of Nebraska, the on-line one. We want to make sure that somebody wasn't going to be in the position where, hey, I...there's nowhere close where I can take a training program. In that case, all you have to do is have a computer so...and we've accepted that. Now the one thing that we would do is--and this bill would add on that if you take one of those, then you're going to have to pass probably a 25-question...we've got the test bank already built up through Lincoln because we weren't able to link on theirs--ran a test bank to show that you've actually, not just...you know, sometimes they just sign-off on your course. You actually know the materials and are going to be covered by the materials. And that's also going to be serving us as a quality control because then we're going to be able to look back. And let's say one specific provider is always failing on this one question. We'll be able to go to that provider and say you've got to fix that. So...but we've tried to automate as much as possible because we understand that there are places in Nebraska where there might not be training. That's when there's always the on-line training program. [LB444]

SENATOR JOHNSON: So there is a testing program? You're working on one? [LB444]

HOBERT RUPE: There is for the on-line one now. What we would do is if the bill were to pass we would then--when you say, hey, I've taken this course, here's my proof of course completion--they'll take probably a 25-question test on-line to show that they actually, you know, took, you know, understood the materials. We want to make sure that somebody's not just, you know...it's a stopgap to make sure that the material is actually being retained. And it's going to be things like a Nebraska minor ID is in what format: (a) horizontal, (b) vertical? You know, that kind of question just to make sure that they've got the look of it. [LB444]

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SENATOR JOHNSON: So the process is: they've read the material on the computer or call-in, and then they're given a test. The test comes out to them...is that a timed test? Is it an open-book? [LB444]

HOBERT RUPE: Well, in our respect, right now they take a test anyway. Right now...you know, what we're doing right now is the provider gives them a test, makes sure they've taken it, and then they show proof of that test. What we're going to do is put a stopgap on there is also have them take the on-line test. And it's primarily quality control to make sure somebody is not just signing off on completion certifications. It's we want to make sure that not only have they taken the test, but actually it tests toward...the material is covering the basics. And so that would be an addition part on that one. And that's primarily from a quality controls, we know which programs are working and which ones aren't as well. [LB444]

SENATOR JOHNSON: Okay, thank you. [LB444]

SENATOR KARPISEK: Thank you, Senator Johnson. Any...Senator Coash. [LB444]

SENATOR COASH: Thank you, Chairman. Hobie, under this bill would this training requirement apply to SDLs? [LB444]

HOBERT RUPE: It's been a while since I drafted it. It is limited primarily, if I read this, to retail licensees. [LB444]

SENATOR COASH: So... [LB444]

HOBERT RUPE: So if it's a retail licensee that is holding the SDL which they can, they probably would. If it's one of the nonprofits, they'd probably fall outside of this. [LB444]

SENATOR COASH: So the Lenten fish fries? [LB444]

HOBERT RUPE: Yeah. [LB444]

SENATOR COASH: Would this apply to the...to that? [LB444]

HOBERT RUPE: You know, I'm not sure what the intent was. We can look at that. You can read it, a retail licensee is a specific licensee. But you can also read it that an SDL is a temporary retail license. I think that's probably an open question that we could clarify. [LB444]

SENATOR COASH: Okay. [LB444]

HOBERT RUPE: And I would leave that to the...I mean, I personally believe that they

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should probably be trained. But you know, I'm sort of a stick in the mud I think but...because it's not that onerous of a thing. And you're not linked to one location. You can be working part time at Duffy's and then if you need to work at the fish fry, hey, here's my card. I'm certified. [LB444]

SENATOR COASH: Okay. But right now, it's just retail licensee which isn't... [LB444]

HOBERT RUPE: Right now...yeah, yeah, which is not a fish...which is not an SDL. [LB444]

SENATOR COASH: A fish...okay. Would it apply to...as drafted, would this apply to gas stations? [LB444]

HOBERT RUPE: Yes. [LB444]

SENATOR COASH: A gas station. [LB444]

HOBERT RUPE: Yeah, they're a retail licensee. [LB444]

SENATOR COASH: Okay. Grocery store? [LB444]

HOBERT RUPE: Yes. [LB444]

SENATOR COASH: Okay. With the...how many communities that you know of, roughly, do you think have already jumped on board and say this is a good thing for our community? [LB444]

HOBERT RUPE: Just off the top of my head you've got Lincoln, you've got Nebraska City, you now have the county of Otoe, you've got Grand Island, you've got North Platte but they didn't go far enough because as I said, their program only covers part of it. I think Scottsbluff is either passing or they are looking at it. And so you're getting more people to look at it. And the one purpose what we're trying to do, I think, in this one is I don't care if a city goes beyond what we do, but the purpose here is make sure that they're at least...if they are going to do it, let's make sure they're meeting the minimum requirements and they're becoming certified by the commission. [LB444]

SENATOR COASH: Because you mentioned North Platte has a program but it's not approved by the commission because it isn't as comprehensive as what you are. Is Seward doing it? [LB444]

HOBERT RUPE: I'm not sure if Seward is doing it or not. The mayor might be able to opine under that. [LB444]

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SENATOR COASH: I'll have to talk to the mayor about that. The UNL program, you...the commission partnered with UNL... [LB444]

HOBERT RUPE: Yes. [LB444]

SENATOR COASH: To do an on-line program? [LB444]

HOBERT RUPE: Yeah. [LB444]

SENATOR COASH: Is that what...when you say the TIPS program... [LB444]

HOBERT RUPE: No. [LB444]

SENATOR COASH: Is that different? [LB444]

HOBERT RUPE: TIPS program stands for Training In Prevention Strategies. It's one of the most accepted worldwide training programs... [LB444]

SENATOR COASH: Okay. [LB444]

HOBERT RUPE: ...not only in the United States but almost...for instance, I think like Norwegian Cruise Lines. I think all of their bartenders have to be TIPS certified. The on-line program got its genesis back, oh, jiminy Christmas, late '90s I believe, the commission helped fund a on-line training program long before there was anything like that. [LB444]

SENATOR COASH: Okay. Well, I just had heard TIPS...but that's not the same as... [LB444]

HOBERT RUPE: That's it right now, yeah. [LB444]

SENATOR COASH: When a person accesses the on-line program through the commission... [LB444]

HOBERT RUPE: Uh-huh. [LB444]

SENATOR COASH: ...can any...couple questions about that. Can somebody who isn't employed by a licensee holder take that? [LB444]

HOBERT RUPE: Currently, no. Currently it's set up--and we would probably have to look to change that--currently what it would be is you would have to have a manager goes onto that program and it's factored off the license number. And then they can also...the manager can also add in their own internal policies to go through the process.

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And then the person would sign on and use that license number to (inaudible.) [LB444]

SENATOR COASH: So right now, a person who's not employed by a licensee can't go on there and take it, get their card, and then go when they're applying for jobs and say, hey, I've got my card? [LB444]

HOBERT RUPE: Yeah. We would have to change that. We can amend our...I don't believe it would be that difficult to do. [LB444]

SENATOR COASH: Okay. Is there a fee to take...does the commission charge a fee for people to... [LB444]

HOBERT RUPE: No. The on-line one I believe is free. [LB444]

SENATOR COASH: Okay. You don't even charge a fee to issue the card? [LB444]

HOBERT RUPE: We issue...we charge a fee currently to issue the cards because under the old statute to maintain the database we set up for the program, we can...we charge a fee, I think \$10 right now, to maintain the database. So our...we...this bill right here would allow us to train as well. I don't think we would...it would probably save the \$10. And the purpose of that is to maintain the database together with the certificates, and if this bill were to pass, also fund probably two positions to, you know, do that because we're going to be looking at about 60,000 people, you know, processing through. [LB444]

SENATOR COASH: So right now, a person can take the course for free but if they want to get the card, they've got to send you ten bucks. [LB444]

HOBERT RUPE: Yes. Yeah. [LB444]

SENATOR COASH: So it's a \$10 fee. [LB444]

HOBERT RUPE: Ten dollar fee. [LB444]

SENATOR COASH: Okay, thank you. [LB444]

SENATOR KARPISEK: Thank you, Senator Coash. Senator Bloomfield. [LB444]

SENATOR BLOOMFIELD: Thank you. Mr. Rupe, I'm going to depend on your ability as a Philadelphia lawyer. [LB444]

HOBERT RUPE: Oh, gosh. [LB444]

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SENATOR BLOOMFIELD: Page 5, line 6, "shall only employ a person to be engaged...." If I'm a volunteer at my American Legion, am I an employee? [LB444]

HOBERT RUPE: I would say that would be an issue we would have to look at. The intention was probably to cover people as...you know, what we're trying to do is professionalize the industry. You know, we probably do need to clarify for volunteers. But we want to make sure that somebody can't just call everybody a volunteer to get around it either. So... [LB444]

SENATOR BLOOMFIELD: Right. Okay, thank you. [LB444]

HOBERT RUPE: Yeah. [LB444]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Any further questions? Seeing none, thank you. [LB444]

HOBERT RUPE: Thank you very much. [LB444]

SENATOR KARPISEK: Do we have any further proponents? Welcome. [LB444]

BRENDA WORTH: Hi. Thank you. My name is Brenda Worth, W-o-r-t-h. I am speaking on...I am a proponent of the bill and I want to thank Senator Krist for introducing this particular piece of legislation. I am here on behalf of my family. We've had tragedy strike us twice. And it pretty much comes from the fact that servers that were under 21 served not only my brother 30 years ago but my nephew this year or in December, which resulted in both of their tragic deaths. I can speak on behalf of the server's family as well because they are personal friends. Just as Senator Krist had said, there is so much peer pressure within these small communities and these bars that you get a 19-, 20-year-old in there, it's really hard to turn your buddy down in serving them a drink. They, themselves, aren't old enough to drink and they also have to make a decision on whether or not to serve this person and pretty much cut off a server that might be 21 years old from drinking because they've had too much. It puts a lot of responsibility on these kids that are 20, 21...19, 20 years old. I understand because of the lobby, the fact that we can't find enough people to fill these jobs that are over 21 years old, so I understand the need for workers 19 and 20 years old. But I would, please, strongly suggest that we have someone 21 years old or older that are managing these young kids so they don't succumb to peer pressure such as this young lady's family did. It's a tragedy that I hope none of you have to ever face. Training is a great first step. A computerized, standardized training, not one that is just given by an employer until you get the right answer because from what I understand, that is what happens. The employers give these tests right now and if an employee misses a question, they just keep going over it and over it and over it until they get the...if it's (a)...a multiple choice question, they run through (a), (b), and (c), and they finally get the right answer and

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then they're certified. Well, that's not really certifying anybody. So I would strongly stand in support of a standardized training through the Liquor Commission. Again, please, please, please consider your support as well for Senator Krist's bill. [LB444]

SENATOR KARPISEK: Thank you. Any questions? Seeing none, thank you. [LB444]

BRENDA WORTH: Thank you. [LB444]

SENATOR KARPISEK: Do we have any further proponents? Welcome. [LB444]

MATT STINCHFIELD: (Exhibit 2) Thank you, Chairman Karpisek. My name is Matt Stinchfield, M-a-t-t S-t-i-n-c-h-f-i-e-l-d. I'm founder and managing member of a new Lincoln craft brewery called Ploughshare Brewing Co., LLC. I'm also a member of the Nebraska Craft Brewers Guild. On behalf of my business, I wish to register support for LB444, introduced by Senator Krist. And it requires, as we've said, the employment of certified personnel to dispense alcohol and the presence of authorized personnel where it is sold. Ploughshare supports this bill because it requires standardized training and on-premise evidence for training of servers of alcoholic beverages. We feel this is a basic standard of care appropriate for the craft brewing industry and certainly the greater beverage service industry. We find that the cost and administrative requirements are modest. The city of Lincoln and Lancaster County already have enacted such rules as been discussed. We find that this bill is a matter of public safety. It also improves business loss control, and it harmonizes the rest of the state with rules that we in Lincoln and Lancaster County are already applying to. Our only potential objection would be that reciprocity between Lincoln/Lancaster County and the state rule, if this is enacted, be sorted out so that we don't end up paying for two different certifications. Thank you very much for your consideration. I'll take questions. [LB444]

SENATOR KARPISEK: Thank you. Any...Senator Coash. [LB444]

SENATOR COASH: Thank you. Thank you, Mr. Stinchfield. Just...I want the record to be clear. I know you're testifying on behalf of yourself and Ploughshare. Is the Craft Brewers Association also in support of this? [LB444]

MATT STINCHFIELD: I am not speaking for the Craft Brewers Guild, sir. [LB444]

SENATOR COASH: Okay, I just wanted to make sure that was clear. Thank you. [LB444]

SENATOR KARPISEK: Thank you. Senator Johnson. [LB444]

SENATOR JOHNSON: Thank you. Do you...your employees would be certified under this program? [LB444]

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MATT STINCHFIELD: Yes, sir. [LB444]

SENATOR JOHNSON: Yes, with this if it went through. Do you feel...how much pressure is put on that employee good or bad when knowing that they're on record as having the training? Do you think, other than having the training and knowing better, do you think this would be a deterrent in helping them realize that they should not sell that beverage to a friend because there is a tracking mechanism? I don't know that they'd ever track it, but just knowing that? [LB444]

MATT STINCHFIELD: I do think it's part of the solution. I think what a business does in its own training program and managing its own employees is also very critical in establishing what's considered good protocol. [LB444]

SENATOR JOHNSON: Okay. Thank you. [LB444]

SENATOR KARPISEK: Thank you, Senator Johnson. Any further questions? How long have you been in business? [LB444]

MATT STINCHFIELD: My LLC was filed in 2011, Senator, and I plan to open my brick and mortar later this year. [LB444]

SENATOR KARPISEK: So you don't have any...do you have servers now? [LB444]

MATT STINCHFIELD: No, I don't, sir. [LB444]

SENATOR KARPISEK: Okay. Thank you. Any further proponents? Welcome. [LB444]

JACK CHELOHA: Thank you. Good afternoon, Chairman Karpisek and members of the General Affairs Committee. My name is Jack, J-a-c-k, Cheloha, C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I want to testify in support of LB444 offered here today for public hearing and thank Senator Krist for bringing it forward. As you know, the city of Omaha issues and authorizes many liquor licenses to various businesses within our city boundaries. We feel that this bill kind of fits the old axiom that an ounce of prevention is better than a...or worth more than a pound of cure. We would fully endorse the training program for the workers at the licensed liquor establishments. However, I mean not to nitpick, where I got my advice to come testify today is from our city council that issues the licenses. We have a subcommittee that meets regularly and deals with license holders and works through any issues or problems we may have. They had a couple of suggestions, if you will, on the first part relative to which employees should be licensed. They didn't...I think it would meet with what the director of the Liquor Control Commission said. It would be anybody who either serves the alcohol or is a manager or, finally, anyone who would check the IDs. We weren't sure

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that you would need to have this training in place for, you know, bouncers if they didn't even check IDs at the door. So that may be a way to help keep costs down for some of the businesses, is just to kind of get into the right personnel and make sure they're the ones training. And on the other issue of having someone 21 and older for on-sale, we thought it would be advantageous also to make that requirement for off-sale licensees as well. And this is anecdotal evidence, but they find that a lot of time minors will go, and they don't hang out at the bars, but they'll try to buy their alcohol at a off-sale site and then they take it and drink elsewhere. And so we thought it would be beneficial to have someone, as well, of age 21 or older at those sites. And those were the two points they wanted me to make today and to just say thank you for the consideration. And we support LB444. [LB444]

SENATOR KARPISEK: Thank you, Mr. Cheloha. Any questions? Does the city of Omaha require training now? [LB444]

JACK CHELOHA: I asked about that as well. Typically what we do is that's more if there's an issue that's presented. We don't require it on the front end and it's not a prerequisite to get your license. But if there may be an issue where someone through a police report or something, we may get a report that they, you know, had problems serving minors or something like that. We may require them or make it a condition precedent to get the license that their either manager or trainee, whoever was at issue, goes through the training and is certified through the Liquor Control Commission. [LB444]

SENATOR KARPISEK: Okay, thank you. Any further questions? Seeing none, thank you. [LB444]

JACK CHELOHA: Thank you. [LB444]

SENATOR KARPISEK: Any further proponents? Seeing none, do we have any opponents? Welcome. [LB444]

KATHY SIEFKEN: Senator Karpisek and members of the committee, my name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, here today in opposition to LB444 for several reasons. Senator Krist is right. This is serious business. It's very serious business. And our industry takes the sale of alcohol and the responsibilities that go with that very, very seriously. But there are some issues with this bill that we have some difficulty with. First of all, the bill itself sets out an increase in the fee. Right now, the Liquor Control Commission is assessing a fee of \$10. This bill says that it will go up to \$15 to certify. I'm not sure why they need to increase the fee by over 30 percent. It requires that retail licensees employ only those people that are certified. It also says that if the person is in management or in security. And I can tell you that retail outlets have many people that serve on their security team that don't touch alcohol. They watch the back door, they

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watch the front door, they watch everything in the building. And so it would also pull in those people that do not have anything to do with the sale of alcohol. And in some of our larger stores, that could be up to a dozen people per store. It also says that the Liquor Control Commission would have the ability to suspend, revoke, or cancel the license. So if one employee--according to this bill--if one employee does not have their permit, the licensee can lose his license. I can tell you that in the city of Lincoln when they passed the permitting process, Hy-Vee said that they would have to license over 100 people per store because that's how many checkout clerks they have. That seems a little harsh to revoke a license because one person may have slipped through the cracks. We believe that the training should start at a management level. There are over 5,000 licensees in the state of Nebraska. And if you would begin with mandatory manager training, you could start by training the 5,000 plus license holders because, frankly, that's where the decisions are made. It's management that controls those policies that are established in the grocery stores and in the other retail outlets. So if you train your managers and the managers retrain their employees on a weekly basis, that's what's going to make a difference. A three-year certificate where someone goes in and recertifies once every three years, that's not the deterrent. The deterrent are those good managers that constantly repeat that training on a regular basis, and that's how you stop the sales to minors. We have our own compliance program here in Lincoln. We've tried to set one up in Omaha a couple of times. But in Lincoln, our compliance checks come in at 92 percent. There are different law enforcement agencies that conduct compliance checks, and they come in between 90 and 93 percent. And that's public record. So the compliance checks show you that we really are making a difference by doing what we're doing. The training programs that we have in our stores work or we wouldn't have a 92 percent...a 93 percent compliance rate with law enforcement. Another problem that we have with the bill, actually, we're written out of it because we're off-sale. But Jack Cheloha came up here and just stated why we're opposed to that section of the bill too. We're one amendment away from everyone in the store under the...everyone in the store that sells alcohol would have to be 21 years of age. We have, right now, a waiver for those that are 16 years of age. They can actually carry out in the full-service grocery stores to the customer's car if they're in the company of a 21 year old, which is the customer because they've already been carded. We have...if you look at some of the larger stores in Lincoln, we've got ten checkout lanes. We need to have 19-year-olds to be able to sell or you would stop everything at the front end of a grocery store. If you have a 21 year old come over and close out every one of those sales. There aren't enough people to go around. One of the comments that Hobie made was that the program that they're promoting is a retest after we've already certified. We listened to the Legislature five years ago and we went out and developed our own training program. That training program is available for off-sale and for on-sale. And the focus for off-sale is in a grocery store, the focus for on-sale is in a bar. You do not have to be a member of our association to take that test. The cost of the test is \$10 per person. So the cost of us developing that program, having people test, certifying, providing a certificate is less or is the same right now as what the Liquor Control

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Commission is charging to keep track of who's certified. The current program was one that was put together 10 to 12 years ago. I and some of my members were on that committee that put that training program together. And at the time, it was cutting edge. That was 10 to 12 years ago. They have not upgraded that program once. That tells you what kind of quality control they have in that UNL training program. The city of Lincoln when they came through with their permit process said that they were going to upgrade that training program. They actually spent all of their time and money and effort on putting together the program itself. They didn't upgrade the training program and they ran out of money. They spent literally thousands and thousands of dollars on setting up a training program that is not about training, it's about a permit process. And I contend that at the end of the day, the Lincoln training program will not improve our incidence of selling to minors. As a matter of fact, what that training program actually did was it stopped training in the city of Lincoln because they set up a date that said if you trained before this date, it doesn't count. So everybody waited until the magic date came around and even now they're having trouble with it. Hobie had said that you're going to have to retest once you're certified. The Liquor Control Commission certified our program. We have test questions in there. You cannot get your certificate if you don't take the entire program and pass it as you go. Yet we need another quiz or a test of 25 questions on top of that to prove that we know what we're doing when we've already sat...our people have already sat there for two hours taking a training program? There is a way to handle the problem, and it's a serious problem. This bill isn't it. And I would like to work with Senator Krist over the interim. I'd like to come back with a better idea. We think that manager training across the state that would preempt local training is the way to go. When you've got stores like No Frills and Hy-Vee that cross over into different counties and they're all over the state, it's very difficult to set up a training program that isn't...a training program that is accepted statewide. The city of Lincoln went ahead and said that you could take any of the programs that the Liquor Control Commission approved. Yet we still have to test out even after we take that test. We pay our people the time it takes them to take the test and we pay their fees, and it becomes very expensive. As I said...oh, and one other problem that we have is North Platte is the perfect example of a city that set up a training program that is not approved by the Liquor Control Commission. So people out there take the training and they come to Lincoln and they have to take the time and the effort to train all over again. If we had a statewide approved training program, you take the program, you're certified, and that's it. That is the way to go. And the best way to do it is to train your managers first, and then in the future you do your servers and sellers. If you have any questions, I'd be happy to try to answer them. [LB444]

SENATOR KARPISEK: Thank you, Ms. Siefken. Senator Coash. [LB444]

SENATOR COASH: Thank you, Chairman. Kathy, could you just tell me how it's...just because I'm a Lincoln senator familiar with...I thought I was familiar with what's going on in Lincoln. At the beginning of your testimony you said that like all the Hy-Vee, if you

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checked out...if you worked at Hy-Vee, as an example, and you were responsible for checking customers out... [LB444]

KATHY SIEFKEN: Uh-huh. [LB444]

SENATOR COASH: ...that they all had to become certified. Is that correct? [LB444]

KATHY SIEFKEN: In Lincoln, yes, it is. They have to be certified and they have to have the Lincoln permit. [LB444]

SENATOR COASH: Okay. So when the Hy-Vee has 100 employees they did that, is what you're saying? [LB444]

KATHY SIEFKEN: They're in the process of doing that, yes. [LB444]

SENATOR COASH: So they are now actually going through and meeting the requirements of the local... [LB444]

KATHY SIEFKEN: Uh-huh. Uh-huh. [LB444]

SENATOR COASH: ..ordinance? And did you say that...okay, they're doing that and they're using the grocery industry's certification process or are they going through the on-line certification process that Hobie described? [LB444]

KATHY SIEFKEN: They are using our...they're using the off-sale training program that we have on-line. And then at that point, once they get their certificate they go to the Lincoln Web site and they put in...they enter the training program under which they were certified. Then they have to test out of another statewide test for the state laws. And then they have to test out for the permit. [LB444]

SENATOR COASH: So three times the... [LB444]

KATHY SIEFKEN: Yes, three times. [LB444]

SENATOR COASH: Okay. [LB444]

KATHY SIEFKEN: They do our test and they get the certification. And, again, ours has been approved by the Liquor Control Commission. Then they do another test...they complete another test for the city of Lincoln which was not supposed to be part of the deal but they ran out of money. So they can't write the program that would automatically accept those other certified programs. So they feel they must retest. [LB444]

SENATOR COASH: Okay, that's two. [LB444]

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KATHY SIEFKEN: That's two, and then they have to take the test for the permit itself, for the city of Lincoln ordinances. [LB444]

SENATOR COASH: Who administers that third test? [LB444]

KATHY SIEFKEN: That would be the...well, it comes under the Lincoln/Lancaster County Health Department. The same people that are doing the food handlers test. [LB444]

SENATOR COASH: Okay. So a... [LB444]

KATHY SIEFKEN: But it is...they are working with UNL. [LB444]

SENATOR COASH: Okay, so a 20-year-old college student that gets a job at Hy-Vee and when they get hired the job duties say sometimes they're going to stick you up front here and you're going to check out customers. They've got to go through all that? [LB444]

KATHY SIEFKEN: Yes. [LB444]

SENATOR COASH: But what if that--just so I'm clear--if that same...if the manager of Hy-Vee says, now we're going to stick you and you're going to be stocking shelves, do they have to go through it? [LB444]

KATHY SIEFKEN: No, they do not. Only those that are serving or selling. And so... [LB444]

SENATOR COASH: Okay, I got it. [LB444]

KATHY SIEFKEN: ...for us it would be the managers and anyone that gets behind a check stand. [LB444]

SENATOR COASH: Okay, I understand. Thanks for answering those questions. [LB444]

SENATOR KARPISEK: Thank you, Senator Coash. Senator Johnson. [LB444]

SENATOR JOHNSON: Thank you. Do you think it's possible to eliminate some of those processes if this bill would be altered in some way that you'd be more favorable toward? Is it the cost or the process that it goes through is the biggest issue you have, and where you have to be tested three times? Can that be cleaned up in your mind in order to be less offensive to you. [LB444]

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KATHY SIEFKEN: Yes. The simple answer to that is, yes. However, a server/seller training program is sort of doing it backwards. The managers are the ones that should be trained first. If you're going to go after a mandatory training program, why wouldn't you do managers first? [LB444]

SENATOR JOHNSON: Okay, so that's the bigger issue for you. Okay, thank you. [LB444]

KATHY SIEFKEN: That's the bigger issue, yes, because there are...that is 5,000 plus people that you would have to train. And really, that's where the impact is going to be because those are the people that are really responsible for the employees and the choices...the way they sell alcohol. You train them to look for the ID, to ask for the ID, that the vertical is a minor, that the horizontal is an adult. Those are the people that refresh on a regular basis. [LB444]

SENATOR JOHNSON: Okay, thank you. [LB444]

SENATOR KARPISEK: Thank you, Senator Johnson. Any further questions? Seeing none, thank you. [LB444]

KATHY SIEFKEN: Thank you. [LB444]

SENATOR KARPISEK: Further opponents? Welcome. [LB444]

MARK WHITEHEAD: Chairman Karpisek, members of the committee, my name is Mark Whitehead. That's W-h-i-t-e-h-e-a-d. I'm here before you as the president of the board for the Nebraska Petroleum Marketers and Convenience Store Association. Those of you who are familiar with me know that I also wear a local hat as well. So, you know, I've got a couple of different responsibilities here in terms of my comments. I would say first and foremost, I agree with a significant amount of what Kathy Siefken represented. The program that the city of Lincoln has put out for mandatory training of our industry here in Lincoln while well intended, went well beyond I think its effective scope. At least within our case and I think most of our members across the state, we are doing different certification programs. Ours is through Federated Insurance. It's been certified by the state of Nebraska through Hobie's department, and we think it's been an extremely effective program. The city of Lincoln came in and wanted to completely reinvent the wheel. As part of the negotiations for that process when we originally started talking about it, they requested that we put a person from our staff on their development committee before it was even approved to get their fingerprints or to get our fingerprints on exactly what this thing might look like. Unfortunately, they didn't follow everything that our HR director--who served on that committee--had indicated, principally because first and foremost she said it's redundant. It's not necessary. Why reinvent the wheel?

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It's a scenario where you've got another entire level of bureaucracy that does much of the same thing that's already out there and available to the industry today. One of the things I'm extremely cautious about is the old adage, I'm with the government and I'm here to help you. And what...when we get government fingerprints on these types of programs it adds a layer of bureaucracy which I think is, again, redundant and not necessary. As to the 19 to 21 in terms of the age component, it's my understanding that that is not applicable to off-sale. But I would state that I honestly don't think there's a magic age for responsibility. I know that I know many 25-year-olds that are capable of functioning as 16-year-olds. And I know 16-year-olds that have far more responsibility than 25-year-olds that I know. I don't think that that's a...there's a magic number for that. In our industry, we've got...we are interested in doing what's in the best interest of the organizations and the communities that we're serving. Responsible hospitality is a significant part of that. We're going to hire the most responsible people we possibly can to fulfill those responsibilities whether it's Whitehead Oil Company here in Lincoln or members across the state. So I, you know, I'm testifying in opposition. I guess I would say fairly light opposition, but I just think that the free enterprise system is working. Nobody understands retail marketing of any product more than our members do. And we take the responsibility of responsible hospitality very, very seriously. I'd be glad to answer any kind of questions you might have. [LB444]

SENATOR KARPISEK: Thank you, Mr. Whitehead. Any questions? Seeing none, thank you. [LB444]

MARK WHITEHEAD: Certainly. [LB444]

SENATOR KARPISEK: Do we have any further opponents? Welcome. [LB444]

JIM MOYLAN: (Exhibit 3) Mr. Chairman and members of the committee, I'm Jim Moylan. J-i-m M-o-y-l-a-n, 8424 West Center Road in Omaha, representing the state association of liquor retailers, the Nebraska Licensed Beverage Association, which has been in existence since the 1940s; covers all liquor licenses in the state. First place, we're not opposed to training and we advocate it, we encourage it, and in fact, we have a program here that pretty well covers everything that a person should know if they're going to work in an establishment. And it's for all of their members. It's for all the members, and most of them utilize it. And we'll go through that later on. Number two, this does include all retailers including the SDLs. The definition under 53-103 of a retailer is somebody who sells or offers for sale alcoholic beverages. And then 53-124.11 says that SDLs have to abide by all the statutes, rules, and regulations regarding the sale of alcoholic liquor. So there isn't any question that that pertains to them. There's a little bit of a waiver provision with respect to distances from churches, hospitals, schools, for licenses. And as you know, now is the time of the fish fries. If you look through the paper in Omaha, Nebraska, you'll probably see about 30 of them going on every Friday during Lent. Now the way the bill reads here, and as close as we can

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find out from statistics from the Department of Labor, well, there's about probably 80,000 servers of alcoholic beverages in the state in the bars, bar/restaurants, restaurants, filling stations, convenience stores, pharmacies, grocery stores. And probably another 10,000 or so coming in or out--some going out, some are coming in. And at \$15 a head in mandatory training, that's over \$1.3 million or \$1.4 million. You're building a bureaucracy over there that can't probably be handled by the commission if you made it mandatory. Now these are all upstanding people from every community in the state. They have a responsibility, they have a license, they have a duty to their citizens, and they're almost all responsible. Now and then there are exceptions. And I found out over the years, the exceptions usually make the rules. Now this here little agreement, you know, is pretty specific. First, checking IDs, tells you how to do it. Feel the license and it gives you the type, you know. The hours of sale, every server should know that. Can't permit open containers after 15 minutes after closing time. Disturbances, nice paragraph on that. Will not allow illegal activity such as gambling, drugs, prostitution, pandering, assault, sexual assault, homicide, which is, you know, pretty standard. Number six, you will always allow law enforcement officers to enter your establishments. Can't remove open containers of alcohol from the premises or sell on credit except by recognized credit cards. Will not serve any two-for-one drinks. Will not sell intoxicated persons and it gives a pretty good definition here of what an intoxicated person is. Will respect all the laws, rules, and regulations respecting the sale of alcohol. Now this little agreement also allows them to discharge an employee for any violation of this, which comes in handy for some of them because the employee understands the nature of it. And if there's any violation, she can be suspended for 90 days or her employment terminated. So this is really a good little course for just about anybody who is going to be a server in an establishment. Now you know, the bill covers management and security personnel. The number of local off-duty police officers in many of the communities serve, you know, as security for a lot of the establishments. So all that security is going to have to be trained also or be licensed. Now they're probably not even included in the 80,000, you know, that I noticed here. Now we get back to the 21-year-old college students. I don't know if there's any here today, but years ago they used to show up here when this bill was being changed. Great opportunity for them to serve, you know, alcoholic beverages starting at 19. And they need that source of income. Small establishments throughout the state might have a son or daughter, you know, that they want to employ. And they can't be there all the time, so what's the use of even having the kid there serving if they have to be there, too. So it's going to be quite an imposition on them. I go back to when I think it was Senator Jerry Warner on the 21 issue reduced the age in the late '60s from 21 to 19 during the Vietnam War. And his theory was--and everybody took it and they passed it--was that if you're old enough to go fight for your country, you're old enough to be able to drink alcoholic beverages. Well, the surge came along and about ten years later they decided to try to move it up to 20. And the first...they gave it a shot and it took about seven years. And I can't remember the senator that had the bill, but anyhow finally it was getting down close so we moved it to 20; but we preserved the 19-year-old working

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thing. And then about...Senator Ralph Kelly came from Grand Island, good senator, nice guy, fun to work with, good old Irishman, you know. And anyhow, he started the process again and it took him about seven years. And it was getting down close to maybe pass so we made a deal. Ralph, go ahead and take it, but leave the 19-year-olds to serve. And he agreed to it and it passed. That's why we're at 21 today. Of course, the federal government would have required it long after that anyhow. So we think the voluntary training program is working. We'd rather see it continue that way. And we all make an effort, the associations, to make sure, you know, that anybody who needs training or wants it can get it. There's seven or eight good programs out there, you know, and we want to just have it to remain voluntary. So we would recommend that you not advance the bill. If there's any questions, I'd be happy to try to answer them. [LB444]

SENATOR KARPISEK: Thank you, Mr. Moylan. Any questions? Seeing none, thank you. [LB444]

JIM MOYLAN: Thank you. [LB444]

SENATOR KARPISEK: Do we have any further opponents? Welcome. [LB444]

TAD FRAIZER: Good afternoon, Chairman Karpisek, members of the committee. My name is Tad Fraizer, that's T-a-d F-r-a-i-z-e-r. I'm a volunteer lobbyist and board member of Updowntowners here in Lincoln, a nonprofit civic group that from time to time obtains special designated licenses. Under Nebraska law, certain nonprofits are allowed to get special designated licenses for up to six calendar days in the course of a year. And for some of our events: for 25 years, we put on the Star City Holiday Parade here in Lincoln. That was obviously an alcohol-free event. We also put on some summer music festivals at which we serve alcohol as both a patron amenity and a revenue source. As you know, special events and festivals and such are often considered important to enhancing communities' economic development and such. But as you also well know, government these days is not in a position to underwrite such events so they have to be self supporting. So alcohol is both at times an amenity for our patrons and, obviously, it helps pay the bills for hiring the musicians, setting up the stage, everything like that. As Mr. Moylan previously noted, under Nebraska Revised Statute 53.124.11, specifically, (5) provides: all statutory provisions and rules and regulations of the commission that apply to a retail licensee shall apply to the holder of a special designated license, although there are certain waiver provisions that the commission can enact. I sometimes say if you're holding an SDL for a special event, you're a retailer for a day. And at least as I read the bill as initially written, I think the provisions of LB444 would apply to nonprofits conducting festivals, street dances, it would apply to our music festivals. I think it would apply to volunteer fire departments putting on a street dance, churches doing fish fries, events at the Wilber Czech Festival, things like that. Obviously, when we're staffing events we have volunteers involved in alcohol service and since they're not employees, we'll often have multiple shifts of

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volunteers in the course of a day. We could have 10 or 20 volunteers per shifts and three or four shifts in the course of a day or an evening. And on a two-day festival, you could easily have 100 or more shift volunteers who--at least as I read this bill--would have to go through the training program, pay for the training program, be certified under the training program. And then as I understand from what Mr. Rupe was saying, then take the test administered by the Liquor Control Commission, pay the certification fee there as well. Just as a practical matter, it's kind of hard to ask volunteers to, you know, please give up two or three hours to help out at this civic event. And, oh, by the way, please take another two or three hours to go by through training. And oh, by the way, please take another hour to go through the Liquor Commission examination after that. And obviously, volunteers aren't going to pay for it. So if you're paying--I think the bill said up to \$30 for a training program plus \$15 for the certification--you could easily be talking anywhere \$30 to \$50 per volunteer in the course of an event. And you're running through a couple hundred volunteers, that can start to get a little prohibitive. So we wanted to call this to your attention. The Liquor Commission does have provisions for waivers of certain aspects of the rules. And we sometimes obtain them for being within a certain distance of a church or some of the fencing requirements or things like that. So it's possible there might be a way to work out a waiver program with some abbreviated training for volunteers and such. Lincoln is trying to work on that under its server training ordinance. There's going to be a meeting later this month about working out how that actually works. But we just wanted to call your attention that, at least as written, the bill would seem to impact festivals, events, street dances, fish fries, whatever. And I hope that something could be worked out to make that a little bit more feasible for the nonprofit groups that try to enhance our communities through various events. And I'd be happy to try to answer any questions you might have. [LB444]

SENATOR KARPISEK: (Exhibits 12, 13, 14) Thank you, Mr. Fraizer. Any questions? seeing none, thank you. I'd ask for any further opponents. I will read into the record a letter of support for LB444 from Project Extra Mile. And a couple of letters of opposition, one from the Nebraska Retail Federation and Nebraska Restaurant Association and the other by the Virginia Legion Post 367. Do we have any neutral testimony? We have one neutral. Welcome. [LB444]

JIM CUNNINGHAM: Senators, good afternoon. My name is Jim Cunningham, J-i-m C-u-n-n-i-n-g-h-a-m. I'm the executive director of the Nebraska Catholic Conference which represents the mutual interests and concerns of the three Catholic dioceses in Nebraska. Our organization has not taken a position on this bill. I would have to just say though, I learned quite a bit today from listening to the testimony. I was aware of this statute that Mr. Fraizer cited and I agree with his analysis that that would seem to indicate that that statute would apply this change in the law to the special designated licenses. Because I'm not authorized to take a position, I just want to indicate and ask your attention to those issues. I think Senator Bloomfield's questions about volunteers were spot on because even though it says employees, I think Mr. Rupe answered it in a

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way that would tend to suggest that this would also apply to volunteers. And I would just underscore what Mr. Fraizer said about the difficulty of operating an event where you have to rely on volunteers, just to provide enough volunteers and get them to cooperate in the program. And then this would add an additional burden to that. And the result would be that it would limit the fund-raising opportunities. So I want to be on the record in a neutral capacity to express those views. Thank you. [LB444]

SENATOR KARPISEK: Thank you, Mr. Cunningham. Any questions? Seeing none, thank you. [LB444]

JIM CUNNINGHAM: Thank you. [LB444]

SENATOR KARPISEK: Any further neutral testimony? Seeing none, Senator Krist, you are clear to close. [LB444]

SENATOR KRIST: Clear for an approach. First of all let me start by saying, if I wanted to kill this effort I would have said that everybody needed to be 21 to serve a beverage. But really, that's close to where I'd like to go, but it's not going to happen. With the concern on SDL, I think that was not a very well thought-out consequence on my part, and I'll work with legal counsel and with the commission. To clarify, I don't really believe that...I don't think it's unreasonable to start the conversation that if you have an SDL, that you need a 21-year-old behind the counter pouring beer if that's what we need to do. But we need to talk about that. There's no question about it because the provisions within the statutes are not clear or they're very clear. SDLs have to comply with all of it, but that was never the intention. What I would point out to you though is something that you heard today which is pretty...pretty telling. There are already national and international training courses on the shelf that we could pull down and say--this is it. When Mr. Rupe came to me early on and I came to him and legal counsel, they said, do you want this to be another layer of bureaucracy? I said, no, if there's a good training program in place, let it be. If there's a certification program out there and a testing program out there, let it be. But there are places around the state that it doesn't exist. And the training program that Mr. Moylan brought to us is wonderful. Now, hold that 19-year-old to attention on that piece of paper and make sure they understand that if they serve alcohol to another 19-year-old like Jacob Dickmeyer who goes out and kills himself, they'll have to live with it for the rest of their life. So I think that training program is a bit incomplete when it comes down to the ramifications and the serious nature of serving alcohol. Should we have gone back to 21 when we changed our drinking age back up? I guess that's water under the bridge. As far as an interim study is concerned, I think that Mr. Whitehead and Kathy Siefken said it best. They're doing it really well, leave us alone. We'd like to spend some time in the interim and figure out where we might do things better. I'd be happy to do that. And if this committee decides to let this lay, then I'll work on it over the summer and do something next year, I'm happy with that. What I'm not happy with is the fact that they seem to discount the fact that there

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are 19-year-olds that are serving 19-year-olds, and there are 19-year-olds being killed in traffic accidents and other activities. If one 19-year-old does what Amanda did and Jacob ends up in the position that she was in, then I think we need to pay attention to the issue. And the issue is we don't have a standardized testing program across the state that holds us all accountable to those standards. So with that, I'll close. I'll take any questions you have. [LB444]

SENATOR KARPISEK: Thank you, Senator Krist. Any questions? Seeing none, thank you. That will end the hearing on LB444. We will now move to LB456 by Senator Lautenbaugh. I see Mr. Smoyer is here to introduce. And I will remind the committee and everyone how we normally do that here. We usually don't ask staff any questions nor allow them to close. However, if Senator Lautenbaugh comes back we would let him close. I know we'd all like to grill Mr. Smoyer but that's why. [LB444]

BRENT SMOYER: You know, Chairman, I was just going to thank you for standing up for me but, well, that changed a bit. Mr. Chairman, members of the General Affairs Committee, my name is Brent Smoyer, B-r-e-n-t S-m-o-y-e-r, here to present LB456 on behalf of Senator Lautenbaugh. He sends his regrets but, sadly, today we had a full dance card of three bills. And, of course, when that happens you know that there are sometimes fires to put out, and he is currently playing fireman and putting out one of those fires. So he does apologize for having to send in the second string. LB456--a little background here--came about because several bars' and restaurants' customers were requesting if they could get tap or draft beer to go. Many of the tap beers and the popularity...with many new tap beers and the popular craft beers the idea has expanded throughout the years that the craft beers are becoming more in the mainstream, more desirable by consumers. And currently under state law, brew pubs such as Granite City or Lazlo's, which we're all familiar with, who brew their own beer on the premises, are allowed to sell draft beer in sealed containers known as growlers. Right now, traditional nonbrewery retailers, such as any establishment along O Street--just to make reference--or your local watering hole are unable to pour beer, seal it, and sell it. This kind of changes the parity between brew pubs and nonbrewery establishments. So the idea behind LB456 is to create parity and create fairness among both sides of the brew pub and nonbrew pub distribution. These customers, of course, want the craft beer because of convenience and in some cases, actually many cases, they are unable to find bottled beer in an off-sale licensed premises. A lot of these craft breweries merely make their beer keg available and not bottle available. So allowing these growlers would increase the opportunity to take that beer home and consume it. The gallonage, of course, in LB456 as drafted is likely too high and should be lowered. And, of course, there should be likely recommendations coming from Liquor Control Commission and others regarding the sealing and transport of the growlers which is why the senator would advocate altering this bill into an interim study to further develop rules and statutory language needed to achieve, again, the ultimate goal of LB456, which is parity between brew pubs and nonbrewery establishments as far as the selling of craft beer.

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And I do believe that is my opening, and since Senator Karpisek said no questions, I'll hand it to the Vice Chair. [LB456]

SENATOR COASH: All right. Mr. Smoyer, as much as it pains me, we'll let you take off. [LB456]

BRENT SMOYER: Well, thank you very much. I appreciate it and, of course, if Senator Lautenbaugh makes it back he will close. Otherwise, of course, he waives. Thank you. [LB456]

SENATOR COASH: I understand. Thank you, Mr. Smoyer. We will start with proponents. Welcome, Mr. Kelley. [LB456]

MIKE KELLEY: (Exhibit 4) Thank you, Senator Coash and members of the committee. My name is Mike Kelley, that's K-e-l-l-e-y. Normally I appear here today as a registered lobbyist for somebody. Today I'm doing something I shouldn't probably do, but I'm appearing on my own behalf. I'm one of the guilty parties that kind of started this conversation. My manager at a bar called Blatt Beer and Table, which is across the street from the stadium in Omaha--which is a new concept, it specializes in craft beers and that type of thing--they asked if they could...if it would be possible to do the thing called growlers. And, again, this is not...we're not trying to promote this with the idea of coming in and getting Bud Light so you can finish your pitcher. This is for the high-end stuff. And I think we passed out earlier copies of our menu. You'll see the types of beer we're talking about are high-end stuff. You know, Delirium Tremens, a Belgian strong pale ale, that type of thing. You can't get that...those beers everywhere. So that's why when you get it, as opposed to having finished it, you can take it just like we did with the wine situation where you allow...now can take wine there. We think that will promote reasonable consumption of alcohol and allow someone to enjoy those type of products at home as opposed to finishing them up there. Of course, as we got to looking into this, there's always issues. There's several issues. The Liquor Control Act is a complex document. And, quite frankly, we have not had time to go talk to the industry members yet on this. And I have talked to the Liquor Commission, and Mr. Rupe and I agree that we probably ought to study it, which now I understand Senator Lautenbaugh is also asking for. So I would join in that chorus with the committee's blessing if we will study this. I think it's something that ought to happen. It's kind of the...there's a thing I saw in a trade magazine a few years ago. There was a great big headline: beer is back. And beer is now...and the craft beers...it's an amazing thing that's going on. And it's a lot like wine. There's a lot of connoisseurs. Some people call them beer snobs. But there's connoisseurs and they are looking at the higher-end stuff, the tastes, with certain meals. It's really an industry phenomenon. This is being studied and looked at in other states across the country. We'd also like to take advantage of what they do because the commission will need to write some rules and regs with this for health and safety so that you make sure that the product is delivered in a way that conforms to health and safety

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rules. And that's not as easy as it sounds. But anyway, we want industry input, we want national industry input as well. So with that, I don't think this bill needs to go anywhere now, but we do ask for your consideration. And we do seriously want to look at a study with, hopefully, doing something next year on this. With that, I'm here for any questions. [LB456]

SENATOR COASH: Thank you, Mr. Kelley. Questions? I don't see any. Thank you very much. [LB456]

MIKE KELLEY: Thank you. [LB456]

SENATOR KARPISEK: Further proponents? Sorry. Thank you, Senator Coash. [LB456]

JIM MOYLAN: Jim Moylan again. J-i-m M-o-y-l-a-n, 8424 West Center Road, Omaha, representing the Nebraska Licensed Beverage Association. I've reviewed the bill and, of course, it just applies to Class A off-sale beer and Class C where you come in, off-sale privileges. We think we kind of like it. There are a lot of draft beer drinkers out there. It would surprise you. You go into some taverns and there's probably 25 taps there. And people might like to take some of that draft beer home because you can't get it in bottles or cans. So I think it's a reasonable way. I remember years ago we used to have a gallon jug--when I was in school--in our car. And we had one little tavern down there that he'd charge you \$1 to fill a gallon jug. Now this is a long time ago. So we're kind of used to draft beer. Any other questions, I'd be happy to answer them. [LB456]

SENATOR KARPISEK: Thank you, Mr. Moylan. That was higher than gas, wasn't it? [LB456]

JIM MOYLAN: That's right. [LB456]

SENATOR KARPISEK: Further proponents? Seeing none, do we have any opponents? Welcome. [LB456]

MATT STINCHFIELD: Thank you, Chairman Karpisek and committee. It might surprise you that a craft brewer is going to come out in opposition to this, but I hope you'll listen to what I have to say. I'm here representing my business, Ploughshare Brewing. Again, my name is Matt Stinchfield. On behalf of my business, I am opposed to this on several different levels. Aside from concerns over managing the integrity and quality of craft products after they've left the brewery, which were shipped from the brewery in draft condition because that's how the brewery best manages the quality of the product, and putting a time...the time you put a beer into a growler, it begins degrading immediately. But aside from the quality issue, the major issues for me have to do with compliance with labeling standards, with the matter of liquor liability, and with the detrimental undermining of Nebraska homegrown businesses that contribute jobs and taxes to the

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economy. Every to-go container should identify the brewery, the product name, and the TTB cautionary warning. Some people may propose a paper doily label be placed over the neck of the growler, but I find this type of label ephemeral and easily lost. Although kegs do use this type of label, they are also required to have a keg registration ticket adhered to them pursuant to Chapter 6 of the Liquor Commission Rules and Regulations. In fact, craft brewers and consumers would benefit from clarification from either the Legislature or Director Rupe's office that breweries currently may only fill growlers with their own identity and TTB warnings stenciled on them or otherwise adhered to them. We also have a concern about liquor liability. Namely, that a Class A or C retailer would fill a growler with our business identity on it with a product from another source. In case of an alcohol-related incident in which the bottles could become legal evidence, we do not wish to be wrongly implicated. Such a situation could involve costly legal defense for a small business where we would be in a position to prove that our beer was not a contributing factor by drawing on the dubious records of a third-party retailer. At least when a craft brewery sells a growler, it can limit its own dramshop liability by not selling to a consumer who is intoxicated. Finally and significantly, craft beer is on the rise in Nebraska, and it represents a growing industry that provides local jobs and tax revenues while creating products with Nebraska identity. We have a long ways to go. Nebraska craft beer producers supply less than a percent of all the beer consumed in Nebraska. And craft beer as a whole, from here and elsewhere, comprises less than 5 percent of Nebraska's craft beer sales. So I disagree with the previous testifiers that these growlers are going to be filled with craft beer--quite unlikely--Nebraska craft beer. They are likely to be filled with major lagers sold at a discount price. That is 95 percent of the beer sold in Nebraska on draft. And in regard to specialty beers, for example, Delirium Tremens, which was mentioned, is a Belgian specialty beer which clocks in at 11 percent alcohol. I don't think we want people selling half gallon jugs of 11 percent beer to be carried out and consumed in a parking lot. The Nebraska craft brewers are underdogs with a great many business and regulatory obstacles in front of us. Not the least of which include high state excise taxes, oppressive contracts with three-tier distributors, and enormous start-up costs. Craft brewers invest millions of dollars in creating breweries that are destinations where the beer-making process can be seen, smelled, touched, and tasted. Allowing the sale of growlers willy-nilly at Class A and C licensees retards one of the most important reasons that drives people to seek out a craft brewery--the ability to buy fresh, locally made beer at the place where it was brewed. For a brewery, this is a vital income stream. It is one of the very few cases in which we are legally permitted to sell our product without being beaten up by wholesaler and retailer margins. If the Legislature allows growlers to be sold at bars, it absconds with one of the very few distinguishing advantages that Nebraska craft brewers possess. Nebraska beer should be given every chance it can to grow in Nebraska because it is good for the state. The Legislature, the Liquor Commission, and the citizenry of our state should instead be expending efforts to encourage craft breweries in Nebraska to produce more, fresher, better, homegrown beer, not to send their dollars out of state or to Belgium to fill jugs with nonlocal products

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which, instead, benefit the economies of other states and countries. We should be working to reduce legal risks for local small businesses. And we must not undermine the modernization of rules that are appropriate for Nebraska craft brewers in the 21st century. I respectfully ask the General Affairs Committee to not bother studying this, to let this bill die forthwith, and I thank you for your consideration. [LB456]

SENATOR KARPISEK: Thank you. Do we have any questions? Seeing none, thank you. [LB456]

MATT STINCHFIELD: Thank you. [LB456]

SENATOR KARPISEK: Further opponents? Do we have anyone testifying neutral? Welcome back, Mr. Rupe. [LB456]

HOBERT RUPE: Thank you very much, Senator Karpisek and members of the General Affairs Committee. My name is Hobert Rupe, H-o-b-e-r-t R-u-p-e, executive director of the Nebraska Liquor Control Commission. And I'm testifying neutral because I think that's where you should testify if you're sort of two minds on a bill. As drafted, we really don't like LB456. And if LB456 was being promoted to go forward, I think we would be here testifying in opposition to it. However, we do agree that this is probably a correct item for an interim study. Just to let you know why we do allow craft breweries to do it and nobody else: It actually goes back to a separate part of the act which, as Mr. Kelley stated, I think he was unaware of. And it's called the original package law, which gives the manufacturer of a beer certain abilities to dictate how the beer is going to be sold because it's got to be sold in the original package. It's been a policy position of the commission's since, I think, 1994, 1996 era that growlers would be allowed because that's the beer manufacturer...by Class L...by holders of a Class L license because they're the makers of the beer. They're determining how it's going to sell, what's the appropriate way to sell it. If they want to sell it also in growlers, they can do it. I'll use--let me think--Upstream up in Omaha. They don't sell theirs off-sale anyway, they sell growlers. You walk in, they have prepackaged growlers ready to go, sealed. And so you know, you can do that. Other microbreweries actually sell cans. They've expended the money in cans, they sell it that way. They might not do the growlers. So we sort of deferred to them because we thought they're the ones that have the money invested in their beer products. As Mr. Stinchfield just said, you know, they're the ones whose name is on the bottle, they're the ones who are selling the product. If they sell a bad batch then they might lose future sales off that. Now the commission has been in the process of actually looking and doing some rules and regulations, just applying it to Class Ls because what most people do is what we would prefer them to do but there's no mandate for it, which is...if anyone remembers back in the day--maybe I'm showing my age now--back when A&W Root Beer where you used to be able to take your jug back and get it refilled. They wouldn't give you the same jug you just handed to them. They'd take that one because you paid for it and then give you a fresh one which had been

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sanitized, cleaned, full of the product, sealed in a way so that it wasn't going to lose its carbonation until you cracked it open. If you look, that's the way a lot of your brew pubs currently do it. I mean, they're selling it in vessels which they've cleaned. For instance, I own...I have a couple of growlers that I own from different establishments. They don't fill that growler up and hand it back to me. It's almost like I paid for it once, they're going to give me a new growler and I'm just going to have to pay for it a separate time--almost like exchanging a deposit or the propane tanks where, you know, it's a different price for if you're exchanging one. So we're going to go forward on rules sort of trying to put that into our rules and regulations as they apply to Class L. If we're going to...if there's going to be an interim study, we're probably going to hold off on that and have the discussion because it's absolutely right. This is a large discussion, it's not just happening in Nebraska. The only area of beer which is really growing by leaps and bounds right now is what's called American-style craft beers. You've got smaller manufacturers all over the country. For the first time since prohibition, you have more breweries now than you did in 1920 when prohibition kicked in. And so other states are dealing with it; some states like New York have gone very liberal on what's allowed. Most states are just keeping it where it's the state of the manufacturer. However, we think the appropriate thing would be an interim study to look at the issue to make sure...and from our perspective, you know, we're primarily going to be looking at, you know, the interest of health, safety, and welfare. We'd like to make sure there are rules and regulations regarding the exchange, regarding sanitation, regarding how they're sealed, you know, so they're not dealing with an open container in a road type situation. That's our idea what we're looking at. But we would be more than happy to work with Senator Lautenbaugh and other interested parties to look at the issue in an interim study. I'd be happy to answer any questions. [LB456]

SENATOR COASH: Thank you, Hobie. Senator Bloomfield. [LB456]

SENATOR BLOOMFIELD: Thank you. Not being a sophisticated consumer, can you describe to me what is a growler? [LB456]

HOBERT RUPE: A growler...I mean, and there's a little bit of utilization...and I've actually got to give Senator Lautenbaugh...he actually informed me of where the name came from. The name comes from back when they used to sell those...because you remember, preprohibition, a lot of beer was only sold in kegs. And you actually sent...your kid went down to the local bar with this pail and would get the beer and bring it home for dad. Well, growlers were ways to seal it. Well, oftentimes those beers would continue to ferment and they would sort of allow noise to come out. And it was...you know, as it was fermenting and gas would be released, it would cause a sound which would sort of sound like a growl. The closest thing to an industry standard right now of a growler as the American craft brewers look at it is a 64 ounce, 1 gallon container, that is supposed to be used for the sale and disbursement of craft beer. And you bring it back and you...so most times it'll be a glass...a brown glass jug. Most of them, as Mr.

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Stinchfield said, should have the name of the brewery on it, the location, the TTB warning on sales, you know, for pregnancy consumption, that kind of stuff. That's what...if you're looking at an industry standard as to the way we would look to define a growler, that is the way I would look at. A six...and usually they're sort of dark brown colored to help preserve the contents from beer...from sunlight. [LB456]

SENATOR BLOOMFIELD: Okay. Thank you. [LB456]

SENATOR COASH: Thank you, Senator Bloomfield. Any other questions for Hobie? Seeing none, thanks, Hobie. [LB456]

HOBERT RUPE: Thank you. [LB456]

SENATOR COASH: (Exhibit 15) Is there any other testifiers in a neutral capacity? Seeing none, I think Senator Lautenbaugh is still doing his other bills, so he waived. So we'll move on. Oh, wait. Before we move on, I do have a letter to read into the record regarding LB456. This is a letter from Project Extra Mile in opposition. Okay, we're going to go on to LB653, which is Senator Davis. Welcome to General Affairs. [LB456]

SENATOR DAVIS: Thank you. [LB653]

SENATOR COASH: You are recognized to open on LB653. [LB653]

SENATOR DAVIS: (Exhibits 5, 6) Good afternoon, Vice Chairman Coash and members of the General Affairs Committee. I am Al Davis, A-I D-a-v-i-s, and I represent the 43rd Legislative District. I am here today to introduce LB653. The bill would increase the tax on beer by 5 cents per gallon. Fifty percent of the revenue generated by the increase would be distributed to the State Patrol cash fund. Another 50 percent of the revenue generated by the increase would be used by counties for law enforcement purposes. The amount distributed to each county would be based on sales reports filed by beer wholesalers. Alcohol consumption is one of the contributing factors in many crimes and a significant number of arrests in Nebraska. And we've included several handouts here for your purposes to look at later. But as you can see from my handouts, we compiled much of this information into a table which breaks out crimes which can be associated with alcohol consumption by county. We also compiled a table which compares all criminal activity across the state by the number of offenses in that category. You will note that of the 83,455 arrests in Nebraska last year, fully 27 percent of those were directly alcohol-related charges which were DUI and liquor law arrests. The criminal activity which goes with many of the other arrest categories is often linked to alcohol consumption. Aggravated assault, simple assault, disorderly conduct, vagrancy, to name just a few. It is also very probable that many of the drug abuse arrests were also paired with alcohol. Alcohol-related incidents, whether they be automobile accidents, domestic abuse cases, or more serious criminal cases such as rape consume a great

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deal of time and increased work loads for our State Patrol and county law enforcement departments. A March 3, 2013, Omaha World-Herald article on ignition lock use after DUIs reported that for 2012, alcohol-related crash tests were actually up sharply in Nebraska from 51 to 90. LB653 would provide revenue generated from the sale of beer to help safeguard our counties, communities, and highways by funneling the revenue generated to county law enforcement officials and the Nebraska State Patrol. With county budgets and law enforcement budgets stretched and the State Patrol operating at a much-reduced staffing level from years past, LB653 would provide a significant new revenue source to our law enforcement community. Since this tax would fall on the consumers of beer and not on those who do not drink, it can be viewed as a user fee to offset the cost to the general public of law enforcement for alcohol-related offenses. I'd be happy to answer any questions. [LB653]

SENATOR COASH: Thank you, Senator Davis. I don't see any questions from the committee, so...oh, excuse me. Senator Bloomfield. [LB653]

SENATOR BLOOMFIELD: Thank you. I was just looking quickly and I did not find it. Is there a method by which these gained funds would be distributed? Which county would get how much? [LB653]

SENATOR DAVIS: It would be based on the amount of sales in each county. [LB653]

SENATOR BLOOMFIELD: Within the county. Okay. [LB653]

SENATOR DAVIS: And there would be a report filed by the beer wholesalers and then the state could distribute the revenue in that manner. [LB653]

SENATOR BLOOMFIELD: Thank you. [LB653]

SENATOR COASH: Thank you, Senator Bloomfield. Any other questions? I don't see any. [LB653]

SENATOR DAVIS: Thank you. [LB653]

SENATOR COASH: Let's see what other folks have to say. Okay, we're going to start with the proponents of Senator Davis' bill. Is anyone here to speak in favor? Seeing none, we're going to move to the opponents. Welcome back, Mr. Moylan. [LB653]

JIM MOYLAN: (Exhibit 7) Thank you. Mr. Chairman and members of the committee, this is Jim Moylan appearing again--J-i-m M-o-y-l-a-n--appearing on behalf of the Nebraska Licensed Beverage Association, an organization that really does not like any type of taxes, including occupation taxes and the like. But they realize they have to pay taxes under that. Here's a chart I would like to hand out. Right now according to the chart that

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you're going to get, you will notice that we are 31 cents per gallon. South Dakota is 27 cents, that's the next highest. Then you go to Wyoming, 2 cents a gallon; Colorado, 8 cents a gallon; Kansas, 18 cents a gallon, Missouri, 6 cents a gallon; and then Iowa, 19 cents a gallon. So we right now are the highest taxwise on beer of any of the surrounding states. And this would raise this by another 5 percent. Number two, I think that the Legislature has pretty well learned over the years that they really...if you earmark a tax, it's going to be pretty hard to un earmark it at a later time. And over the years as things have progressed, there's been less and less earmarking. So we are definitely opposed, you know, to earmarking a tax. We'd recommend that you'd not advance the bill. If there's any questions, I'd be happy to try to answer them. [LB653]

SENATOR COASH: Okay. Any questions for Mr. Moylan? I don't see any. Thank you. Next testifier? [LB653]

JOSEPH KOHOUT: (Exhibit 8) Good afternoon, Senator Coash and members of the General Affairs Committee. My name is Joe Kohout, K-o-h-o-u-t, and I am registered lobbyist for the Associated Beverage Distributors of Nebraska. And I'm here today to appear in opposition to LB653. The 16 member companies of ABDN are locally owned and operated, independent family businesses serving over 4,400 retailers across Nebraska. Our members make a significant contribution each year to the state's economy. Through direct and indirect contributions, Nebraska's beer distributors support nearly 700 jobs, provide employees with competitive wages and quality benefit programs which amounts to over \$46 million in wages. We also make a considerable impact through the purchase and operation of warehouses, hundreds of trucks, trailers, and vans, and fuel costs for a total economic contribution that exceeds \$121 million in output. Taxes generated by the beer industry both for business and personal amounts, up to over \$108 million. Every state and the District of Columbia imposes an excise tax on beer in addition to the federal excise tax. Nebraska collects the tax from distributors who make tax payments on their purchases, which minimizes the number of taxpayers and results in an efficient method of tax collection. All states require extensive recordkeeping by distributors and Nebraska requires that beer must come to rest within warehouses ensuring that it does not avoid the state liquor excise tax. In 2010, the breakdown of consumption taxes paid at the federal level was \$26 million, the state and local level was \$51 million, and excise taxes equalled \$14.2 million. Compared to other states, Nebraska was the highest state beer excise tax of any surrounding state in the Midwest at Nebraska at \$9.61 per barrel, Iowa at \$5.89, Kansas is at \$5.58, Colorado is at \$2.48, Missouri at just \$1.86, and Wyoming is even lower at only 62 cents. I would note that for purposes of the map that I passed around, that is based on barrel, which is 31 gallons to the barrel. If you take a look at the contiguous states, Nebraska's tax rate is 63 percent higher than the second highest tax rate and 16 times higher than the lowest rate, which is Wisconsin at 62 cents. The association has verified and updated these figures for presentation to you today. Raising excise taxes could have an extremely harmful effect on the beer industry, which is most recently evidenced by a

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1991 doubling of the federal excise tax on beer which cost approximately 60,000 Americans their jobs in brewing, distributing, and retailing industries. Raising beer taxes could threaten jobs and have a devastating impact on our business operations in Nebraska. ABDN remains opposed to LB653, and I would try to answer any questions that you might have. [LB653]

SENATOR COASH: Thank you, Mr. Kohout. Any questions? Senator Johnson. [LB653]

SENATOR JOHNSON: The \$9.61, is that after the increase or... [LB653]

JOSEPH KOHOUT: No, no. That's... [LB653]

SENATOR JOHNSON: That's current. [LB653]

JOSEPH KOHOUT: That's current. [LB653]

SENATOR JOHNSON: Thank you. [LB653]

SENATOR COASH: Any other questions? Seeing none, thank you. Next opponent. [LB653]

TIM KEIGHER: Good afternoon, Vice Chairman Coash and members of the committee. My name is Tim Keigher, that's K-e-i-g-h-e-r. I appear before you today as the registered lobbyist for the Nebraska Petroleum Marketers and Convenience Store Association. And Mr. Whitehead was going to testify and got a phone call so he left. So I guess I don't really have a lot to add other than what the two previous testifiers have said other than that we feel the beer tax is high enough. We're already trying to compete with the bordering states in selling beer. And with that, I'd be happy to answer any questions. [LB653]

SENATOR COASH: Thank you for that concise testimony. Any questions for Mr. Keigher? Seeing none, thank you. We'll take the next testifier in opposition. Welcome. [LB653]

JASON PAYNE: Thank you, Senator Coash and members of the committee. My name is Jason Payne, J-a-s-o-n P-a-y-n-e, and I'm here to represent the Nebraska Craft Brewers Guild. I have a prepared statement. I'll read through it real quick; then I'll open it up to questions. I am the president and founder of Lucky Bucket Brewing Company out of La Vista, Nebraska. Our company is a member of the Nebraska Craft Brewers Guild, which exists to promote and protect the growing craft beer industry in this state. I'm here on behalf of the association to provide comment on the proposed changes to LB653. The Nebraska Craft Brewers Guild is opposed to the suggested changes. The craft brewing industry has gained significant momentum in our state over the past

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several years. In the past two years alone, eight new craft beer businesses have either been incorporated or begun operations bringing the state's total to 18 craft breweries or brew pubs. Speaking as a small business owner in Nebraska, the suggested tax increase from 31 cents a gallon to 36 cents a gallon would be a detriment to an exciting and growing segment of Nebraska's economy. The current excise tax rate of 31 cents per gallon of beer produced is nationally ranked as eighteenth in the country. Our state also boasts the highest tax rate of any of its neighboring states. I'll skip over a little bit of that to keep it concise. In conclusion, the members of the Nebraska Craft Brewers Guild ask the committee to reject the proposed changes to LB653. To be clear, the guild is not opposed to the purpose for which the additional tax funds would be spent, but that this funding should not be derived from craft breweries in Nebraska. Opposing this bill amendment is an opportunity for the committee to support locally grown businesses and a promising segment of Nebraska's economy. Thank you for your consideration. I'll open it up for questions. [LB653]

SENATOR COASH: Thank you, Mr. Payne. Senator Krist has a question. [LB653]

SENATOR KRIST: Either last year or year before last, we increased the number...the amount of barrels I think you can produce in a year... [LB653]

JASON PAYNE: From 10 to 20, I believe. Yeah, thousand. [LB653]

SENATOR COASH: ...to 20, right. Where are you now just out of curiosity? [LB653]

JASON PAYNE: Our goals are to hit about ten this year. [LB653]

SENATOR KRIST: Ten this year. [LB653]

JASON PAYNE: Yep. [LB653]

SENATOR KRIST: So it'll be a little while before you come back and ask for another increase. [LB653]

JASON PAYNE: Yeah, two, three years would be great if we're back here. [LB653]

SENATOR KRIST: Okay. Well, keep up the good work. All right. [LB653]

SENATOR COASH: Thank you, Mr. Payne. Any other questions? Seeing none, thank you very much. [LB653]

JASON PAYNE: Thank you. [LB653]

SENATOR COASH: (Exhibits 16, 17, 18, 19) While Kathy is coming up I'm going to read

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into the record a few letters we received: a letter from the Nebraska Association of County Officials in support of LB653; a letter in support of LB653 from Project Extra Mile; a letter of support from LB653 from Jack Anderson; and a letter in opposition to LB653 from Zipline Brewing. [LB653]

KATHY SIEFKEN: I'm on? [LB653]

SENATOR COASH: You're on. [LB653]

KATHY SIEFKEN: Good afternoon, committee members. My name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, here today representing the Nebraska Grocery Industry Association in opposition to LB653. And my testimony, hopefully, will be short and sweet. A tax is a tax, and this is \$2.3 million that would be taken from the taxpayers in this state. Two point three million, that's a lot of money. That is a tax that consumers will pay across the state. We believe that there is only so much disposable income that families have. And that money that would go to the state as a result of this 5 cent per gallon tax comes out of the food budget. And we think that families should have access to healthy food and this would have an impact on that. If you have any questions, I'd be happy to try to answer. [LB653]

SENATOR COASH: Thank you, Kathy. Are you telling me that if we increase the beer, that there might be less... [LB653]

KATHY SIEFKEN: There might be fewer gallons of milk purchased, you never know. No, actually, any time there is a tax increase--I don't care what it's on--it affects the food budget. And that's really our basic concern. [LB653]

SENATOR COASH: Okay, okay, I get it. [LB653]

KATHY SIEFKEN: It doesn't make any difference if it's beer or whatever. [LB653]

SENATOR COASH: Okay, got it. Thank you, Ms. Siefken. Any other questions for Ms. Siefken. Seeing none, thanks for coming. [LB653]

KATHY SIEFKEN: Thanks. [LB653]

SENATOR COASH: Next testifier. Welcome back. [LB653]

MATT STINCHFIELD: Thank you, Senator Coash and committee. Some of these numbers have already been rehashed, so I will just point out that if the bill goes through, our new barrel tax for the state excise would go to \$11.16 a barrel, putting us in about eleventh top highest in the country for beer excise tax. But I also wanted to point out something the other testifiers haven't, and that is that in addition to paying this excise

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tax brewers also pay \$7 per barrel federal excise tax, state and local sales taxes, we pay arena tax here in downtown Lincoln, taxes related to employment and property, and licensing fees and bonds. Indeed, on an income versus tax basis, Nebraska-based brewers contribute more to state and local tax coffers than almost any other type of business, which makes us popular with civic leaders perhaps but also makes it very challenging to run a profitable business. Nebraska craft brewers are already at a disadvantage to produce a premium product that has to compete with value brands from other states and countries. We have these enormous capital and equipment and inventory requirements. And by increasing this rate, Nebraska brewers' growth is actually stifled in terms of their employment, their production, and thereby the additional tax revenues they would otherwise generate should their production increase. I really hope that next year we're sitting here discussing how to halve the state excise tax for beer. And I will also reinforce Mr. Payne's statement that we do not object to the goal that these funds would be raised for. We certainly think that we should have adequate State Patrol, particularly related to alcohol-related crimes, but that singling out the beer industry when the tax is not proposed to increase for wineries, farm wineries, or distilled spirit producers, seems a little bit unevenhanded. Thank you. [LB653]

SENATOR COASH: Thank you. Could I ask you a question? Do you think the high tax burden on beer keeps your competitors from coming into the state and competing with you? [LB653]

MATT STINCHFIELD: It does, sir, but in the craft beer business, good beer competitors are good for business because they elevate the brand education and the style education for the general consumer. So unfortunately, when the beer shipper fee went up in 2010 by a factor of 5 to \$1,000 a year, the state was unable to raise the kind of additional revenues through that that I think it had hoped for. And, indeed, significant craft brewers from Colorado and other area states pulled out of the state as a result of that. [LB653]

SENATOR COASH: Thanks for that insight. Any other questions? Seeing none, thanks for coming. [LB653]

MATT STINCHFIELD: Thank you. [LB653]

SENATOR COASH: Take the next testifier. [LB653]

RICHARD LOMBARDI: (Exhibit 9) Good afternoon, members of the committee. My name is Rich Lombardi, L-o-m-b-a-r-d-i. I'm appearing today on behalf of Empyrean Brewing Company, I'm their registered lobbyist. I am distributing to the committee a letter from our director of corporate compliance, Angie Tucci, which covers a lot of the points that you've already heard. So thank you very much. [LB653]

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SENATOR COASH: Thank you, Mr. Lombardi. Any questions? [LB653]

SENATOR KRIST: That's the new best testimony of the day. [LB653]

SENATOR COASH: All right. Thank you very much. [LB653]

RICHARD LOMBARDI: Thank you, sir. [LB653]

SENATOR COASH: Is anyone else here to testify in opposition? Is there anyone here to testify in a neutral capacity? Good, I had some questions for you. [LB653]

HOBERT RUPE: (Exhibits 10, 11) Well, that's why I go neutral. Good afternoon, members of the General Affairs Committee. My name is Hobert Rupe, H-o-b-e-r-t R-u-p-e. I am the executive director of the Nebraska Liquor Control Commission. We are testifying in a neutral capacity. Although we support the underlying thought of funding for law enforcement, the commission has never taken a position on what the appropriate tax rate is. That is a legislative decision. We merely collect it for you and do so in that area. So I will say one thing about the mechanics of the bill if it goes forward. To break it down by county might cause some issues. The current reports do not...are not broken down by county. Basically what happens is, every month a beer wholesaler will file their gallonage report on the 15th of the month. On the 25th of the month, the tax is due on that gallonage report. And that's just based on the total gallons that they've imported because beer tax...you remember, the beer...the tax accrues when it lands at the wholesaler, not when it leaves like a spirit or wine. And then we'll cross reference those with the shipping reports from the manufacturers. Some counties are split, there will be a split in counties. And so, you know, from a mechanical standpoint it will be a little bit of effort from the commission and the wholesalers to sort of try to break it down by county. Currently, we've only...we've asked the wholesalers just to ID one specific location, and that was at the request of the Legislature about a decade ago. That is Whiteclay. So...but I...what I have handed out, gives you a little indication of the taxes that are available and sort of the history as to when they were changed in Nebraska. The color sheet as you see, it's from '11. I think there might have been a couple of changes. I think Wisconsin might have raised their taxes from that point. It used to be 6 cents a gallon. But I believe other than that, any other changes would have gone...for the taxes would have gone up. So it sort of gives you a landscape. And some people will tell you by barrel, you know, that the act specifically taxes by the gallon and so that's the gallonage rate, is 31 cents a gallon in Nebraska. That is applicable to whether it's a 2.3 percent light beer or an 8.5 percent craft beer, they're both taxed at the same rate. The value of the product is irrelevant, it's just the actual how many gallons of it and if it's classified as a beer. The other thing I've handed you out is sort of a "printoff" from our Web site, which sort of gives a history as to when the taxes have been applied and what the rates were going back to 1935 when the act was put in. One thing I will say, you'll notice that through most of that time period we had a separate tax on wine, light wine

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which was, I believe, under 11 percent and fortified wine which is higher. Those were combined back in 2003. And in '97, the only change there was the addition of the farm winery tax at that point in time. With that, I'd be happy to answer any technical questions. [LB653]

SENATOR COASH: Thank you, Hobie. The...your office has to collect all this tax, right? [LB653]

HOBERT RUPE: Yes. [LB653]

SENATOR COASH: Where do we put the beer tax? [LB653]

HOBERT RUPE: General Fund. [LB653]

SENATOR COASH: General Fund. So presumably, that's where we get our State Patrol money. [LB653]

HOBERT RUPE: Yes. Last year, right around \$14.5 million off beer, and about the same from wine and spirits. We're just under \$30 million total in General Fund collections. [LB653]

SENATOR COASH: So out of everything, about half of it's beer? [LB653]

HOBERT RUPE: Yeah, it's roughly half. It used to be a little bit higher but for the last couple of years it's been, you know, it's...you've seen a little bit of an erosion in beer. But now you're sort of seeing it bounce back with sort of as people are trying more the craft breweries and the craft-style beers. But it's roughly 50/50. [LB653]

SENATOR COASH: Where is the licensing fee...like we charge a fee for the licenseholder? [LB653]

HOBERT RUPE: Yes. [LB653]

SENATOR COASH: For the beer guys, since that's what this beer or this bill addresses... [LB653]

HOBERT RUPE: Okay. [LB653]

SENATOR COASH: ...where does the fee collected from the license go? [LB653]

HOBERT RUPE: Now which license are you--because they go to different places--retailer? [LB653]

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SENATOR COASH: Well, let me use the craft brewer guys... [LB653]

HOBERT RUPE: All right. [LB653]

SENATOR COASH: ...the local... [LB653]

HOBERT RUPE: Okay. [LB653]

SENATOR COASH: ...Lazlo's, Ploughshare, those guys. Where does that fee money go? [LB653]

HOBERT RUPE: All right. The fee money...let me make sure I'm giving it right...it goes...I had to ask someone. Some of them...most of them, the fee goes to the General Fund. A lot of it does. [LB653]

SENATOR COASH: Okay. [LB653]

HOBERT RUPE: But you have to...one that you have to be cognizant of, is that the statute specifically allows for an occupation tax be charged by the city or county of up to twice the licensing fee. And that fee goes into the city. So let's look at...we were talking about Lazlo's. Lazlo's is going to be getting not one, but two different licenses for--let's just use their downtown location as an example. They're going to be getting the Class L liquor license because they're a craft brewery. And I believe that that's \$250--I could be off--and then the city can charge up to twice that amount. But they also, because they want to sell other products other than their own, are then also getting probably an I or a C--I think it's C--which is \$300, which is an additional \$600 that the city can charge as an occupation tax. The statute specifically says that they can charge up to twice the license fee, and that's where the city would go to. [LB653]

SENATOR COASH: Okay. So the state...the commission requires them to have a license. [LB653]

HOBERT RUPE: Yes. [LB653]

SENATOR COASH: Where does the money that the commission collects go to? [LB653]

HOBERT RUPE: That goes to the General Fund, the license fee. [LB653]

SENATOR COASH: General Fund. And then we reallocate some of that so you can run your office, right? [LB653]

HOBERT RUPE: Yeah, yeah. Yes. [LB653]

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SENATOR COASH: And then if the locals...if the local body wants to put a tax on it, they can go up to double that... [LB653]

HOBERT RUPE: Yes. [LB653]

SENATOR COASH: ...and then the locals do what they want with that. [LB653]

HOBERT RUPE: Yes. [LB653]

SENATOR COASH: What about the fee that the out-of-state...what's Budweiser have to... [LB653]

HOBERT RUPE: Budweiser pays a licensing fee. One of the reasons why we raised those, for years they were only like \$200. We raised it to \$1,000 years ago because we hadn't changed it in 40 years. That goes to the General Fund. [LB653]

SENATOR COASH: Okay. So that \$1,000 that Bud has to pay... [LB653]

HOBERT RUPE: Yep. [LB653]

SENATOR COASH: ...that goes to the General Fund. [LB653]

HOBERT RUPE: Yes. [LB653]

SENATOR COASH: Okay. All right, thanks, Hobie. I don't have any other questions. Senator Krist. [LB653]

SENATOR KRIST: So to Mr. Stinchfield's point--to be clear for the record--when he says it would be unfair to tack on an additional tax for the breweries, in essence, going into the General Fund currently and being redistributed is the support for the State Patrol, etcetera, etcetera, etcetera. [LB653]

HOBERT RUPE: Exactly. [LB653]

SENATOR KRIST: So if this bill were going to be fair across the board, we would go back again and adjust not just beer, but all alcoholic beverage to go back into the General Fund. And Mr. Moylan's point was that we don't do very well by earmarking things because we can't unear it at the later date. So I think those two points need to be clearly stated. And the other thing is just a personal comment. I guess when you're Alaska, you can't go anyplace else. You can charge what you want to. They're number one. [LB653]

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HOBERT RUPE: You know, they are number one. You will notice that a lot of the states which have relatively low rates also might happen to be the homes for major beer manufacturers. As I said... [LB653]

SENATOR KRIST: And the other ones are in the Bible Belt, the higher ones. [LB653]

HOBERT RUPE: You know, we are sort of in the middle of the road nationally but are higher in the neighborhood because, well, when you have Colorado at 6 cents, Missouri at 6 cents, and Wyoming at 2 cents a gallon...why Wyoming...although I can tell you, they are doing an interim study to look at raising their beer tax. I saw that in an industry article. [LB653]

SENATOR COASH: Very good. Thank you, Hobie. Any other questions? Senator Johnson. [LB653]

SENATOR JOHNSON: More curious...what...there's a lot of different taxes and it's going to vary, but the direct taxes...what is the tax on a gallon of beer in Nebraska that's a direct tax based on...I mean, you've got the licensing and everything else, but there's a federal tax and a state... [LB653]

HOBERT RUPE: There is a federal tax and I believe...I can't remember the exact amount, which is based on barrel gallons. And so when...but let's just use a gallon of Bud Light beer being made in St. Louis. When they make that, they're going to submit...when it's...when they package it for shipment, they're going to have to pay the excise tax to the federal government, which is going to be...so then that 33-gallon keg is going to end up out at Double Eagle Distributing out here in Lincoln, Nebraska. When it lands on that dock, then the state excise tax of 31 cents a gallon is going to attach. So that's when the value of the...that's when the excise tax is attached both to the federal and the state taxes. Then the product will be taxed a third time because then, when--let's say Duffy's Tavern--buys that keg of beer and then they sell it, then they have to remit the sales tax and any other...sales tax. And that's based upon the value of the product then. So the item is being taxed nationally at a federal excise state, by the state by a state excise tax, and then by the locals and the states yet again, as a sales tax. [LB653]

SENATOR JOHNSON: So can you give me a number what those three might add up to? [LB653]

HOBERT RUPE: Well, let's see. Ours is 31 cents a gallon. If it's in Lincoln, it's at least 6.5 or 7 percent now, so and that's based on the value. See, that's the difference. [LB653]

SENATOR JOHNSON: Right. I mean, it's going to vary. [LB653]

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HOBERT RUPE: It's going to vary. You know, that's one thing. A bottled beer which they sell for \$1 is going to have a 7 cent sales tax. The same bottle of beer which sells for \$5 is going to have a 35 cent tax on it. But we charge exactly the same excise tax because we don't care about the value, we just care about the gallonage for the state. [LB653]

SENATOR JOHNSON: I guess I still don't know... [LB653]

HOBERT RUPE: I'm sorry. [LB653]

SENATOR JOHNSON: ...how much tax there is on a bottle of beer or a gallon of beer. I know it varies, but... [LB653]

HOBERT RUPE: Yeah, the sales tax will vary on the value. Excise tax I can tell you is 31 cents a gallon, which I think works out--going through my math real quick here...you know I'm a lawyer, math was never my strong subject. [LB653]

SENATOR JOHNSON: But that's the state. So what's the federal excise, round? [LB653]

HOBERT RUPE: Federal is \$7. Seven dollars a barrel. [LB653]

SENATOR JOHNSON: Seven dollars a barrel. [LB653]

HOBERT RUPE: And a barrel is considered a 33-gallon barrel. So... [LB653]

SENATOR JOHNSON: Yeah. Divide by 33. Okay. Thank you. [LB653]

SENATOR COASH: Thank you, Senator Johnson. Any other questions for Hobie? Seeing none, thank you. [LB653]

HOBERT RUPE: Thank you. [LB653]

SENATOR COASH: Any other testifiers in a neutral capacity? Seeing none, Senator Davis, you're recognized to close if you'd like. You're the last testifier of the last hearing of the whole year in this committee. [LB653]

SENATOR DAVIS: Is that right? [LB653]

SENATOR COASH: Yes, you are. [LB653]

SENATOR DAVIS: Well, that means that I should pass it on then. Thank you again for

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your patience in listening to my opposition, which I knew there would be a significant number of. Let me say this is the first time I've ever heard that raising the price of beer is going to impact the price of food. That's shocking to me. I would like to remind you that I'm not the greatest at math either, and it's always about English measures, and those kind of things. But near as I can tell, this tax increase would be about a nickel on a 12-pack. So I don't think we're going to be losing customers to other states. I don't think we're going to be impacting significantly anything except funneling revenue back to our law enforcement where it needs to be. You can see by the data that we provided that alcohol-related criminal charges are significant. And I think if you study those very carefully, you'll really understand what I'm trying to get at here. I'm sure you all realize that I represent Whiteclay, and the Sheridan County alcohol problems are significant. This is where the idea for the bill came from. I'd hope that you would look at it with an unbiased manner and consider passing it out. [LB653]

SENATOR COASH: Thanks, Senator Davis. Senator Krist, do you have a question? [LB653]

SENATOR KRIST: The technicality of whether or not it's earmarked or whether it goes into the General Fund and then is disbursed from there, the subtle difference thereof, would you be willing to talk about that? [LB653]

SENATOR DAVIS: I certainly would, yeah. [LB653]

SENATOR KRIST: Okay. [LB653]

SENATOR DAVIS: And you know, we talked about trying to exempt Nebraska-raised products or the brew pubs and things. I just didn't get that done. And we thought that maybe that might be something that might be appropriate. [LB653]

SENATOR KRIST: And then every chance I get, I want to relate to the people of Nebraska what a sad situation we have in Whiteclay and the attention that it deserves. So thank you for bringing that to our attention as well. [LB653]

SENATOR DAVIS: Thank you, Senator Krist. And you know, some may call it a tax. I really say it's a user fee because if you don't drink beer, you're not going to pay that tax. So a nickel a 12-pack doesn't seem excessive to me. Thank you. [LB653]

SENATOR KRIST: Thank you. [LB653]

SENATOR COASH: No other questions, Senator Davis. Thank you very much. And that will be all. We're going to go into Exec. [LB653]