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Transcriber's Office

General Affairs Committee
February 03, 2014

[LB863 LB866 LB888 LB899 LB1104]

The Committee on General Affairs met at 1:30 p.m. on Monday, February 3, 2014, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1104, LB888, LB863, LB866, and LB899. Senators present: Russ Karpisek, Chairperson; Colby Coash, Vice Chairperson; Dave Bloomfield; Sue Crawford; Jerry Johnson; Bob Krist; and Ken Schilz. Senators absent: Scott Lautenbaugh.

SENATOR KARPISEK: Hopefully, we'll get one more senator; if not, we'll have Senator Watermeier on our committee for a few minutes so we can (laugh) be going.

SENATOR JOHNSON: Debate his own bill, huh?

SENATOR KARPISEK: Yeah, yes.

JOSH EICKMEIER: I don't think you can start till we get five.

SENATOR KARPISEK: Well, can I...

JOSH EICKMEIER: Yeah...

CHRISTINA CASE: You can probably do the...

JOSH EICKMEIER: ...do the intro.

SENATOR KARPISEK: Yeah, I'll do the intro, and, hopefully, someone else will show up. If you're sitting in your office watching, laughing, get here. (Laughter) Welcome to the General Affairs Committee. I am Senator Russ Karpisek, and I live in Wilber, and I'm the Chair of the Committee. Committee members who are present or who will be coming...we have Senator Crawford from Bellevue, Senator Bloomfield from Hoskins. Senator Lautenbaugh I don't think will be with us today, from Omaha; I think he's talking to a (laugh)...a county attorney (laughter). Senator Coash will be joining us, from Lincoln; and he's Vice Chair of the committee. Josh Eickmeier is our legal counsel. To my far left is Christina Case, our committee clerk; Senator Johnson of Wahoo. Senator Schilz will be next to him, of Ogallala; and Senator Krist of Omaha. And Senator Coash just arrived, so now we have enough; thank you. Our page today is Colton Wolinski of Lincoln; he's sleeping already. I know...

JOSH EICKMEIER: He's coming.

SENATOR KARPISEK: ...just read it, right? Okay, after each bill introduction, we would like to hear testimony in support of the bill, then in opposition, and finally neutral

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testimony. If you are planning on testifying in any capacity, please pick up sign-in sheets that are on the back tables of the room; please fill out the sign-in sheet before you testify. When it is your turn to testify, give your sign-in sheet to the page or to the committee clerk; that will help us keep a more accurate public record. If you have handouts, please make sure that you have ten copies for the page to hand out. If you do not have that many, get his attention and he can get you some run off. When you come to testify, please speak clearly in the microphone; please tell us your name and spell your name; and also please tell us whom you are representing, if anyone. Please turn off your cell phones, pagers, or anything else that beeps. Please keep your conversations to a minimum, or take them out in the hallway. Finally, while we do allow handouts, we do not allow visual aids or other display items unless it is cleared through the Chair. We will be using the lights system today. Last week got far too unruly for a couple people, talking too long. And so we're going to use them today. The green light is good for four minutes; the yellow light is good for one minute; and then the red light, kind of wrap it up. And then we'll ask you questions and maybe let you finish up if you were running over. We will begin today's hearing with LB1104. Senator Watermeier may start. Welcome to our committee. [LB1104]

SENATOR WATERMEIER: Thank you. Good to be here. Thank you, Senator Karpisek and members of the General Affairs Committee. I am Senator Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r, representing the 1st Legislative District, covering the southeast corner of Nebraska. Originally my intent was to introduce LB1104, which proposed to allow a business holding a farm winery license to also obtain a retail license for the sale of alcoholic liquor. I am very supportive of farm wineries in Nebraska, because at least 75 percent of the finished product must be grown in Nebraska. Wines produced at farm wineries play an important role in the promotion of Nebraska-grown products. Farm wineries have done great things for the economic development across the state of Nebraska. Many are located in rural areas of the state, bringing people and revenue to the area. The establishment of a farm winery involves a great deal of investment and hard work, from planting the vines to pruning the grapes to developing the business plan and marketing of the product. I commend the farm wineries for their innovative ideas for unique events such as a Renaissance festival, "meet the winemaker" dinners, and summer music series. One winery even has antique-furnished bungalows near the vineyard for guests to stay in. Since their inception in the late '90s, wineries have begun to play a significant role in tourism in Nebraska. The purpose of this bill was to help these wineries grow and remain profitable while staying within the production and shipping limitations placed on them by statute. However, after meeting with the liquor industry and Liquor Control Commission officials, we have decided against proceeding in this direction. It has given me the opportunity to learn more about the laws pertaining to liquor licenses. If anyone here today is to testify in support or against the bill, I do apologize; but the decision to not push this bill was made just on Friday, which was too late to cancel the public hearing. Therefore I am asking the committee to indefinitely postpone LB1104. So thank you for your time. [LB1104]

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SENATOR KARPISEK: Thank you, Senator Watermeier. Does anyone have any questions? Seeing none, thank you. Would... [LB1104]

SENATOR WATERMEIER: Thank you. [LB1104]

SENATOR KARPISEK: Are you going to waive closing? [LB1104]

SENATOR WATERMEIER: I'm going to go...yes. And I will testify at another bill here. Thanks, Chairman. [LB1104]

SENATOR KARPISEK: Well, better luck with that one. [LB1104]

SENATOR WATERMEIER: (Laugh) All right. [LB1104]

SENATOR KARPISEK: Is there anyone who wants to testify in support of LB1104? Seeing none, in opposition? Neutral? Seeing none, Senator Watermeier waives, and that will end the hearing on LB1104. Next we will hear LB888, by Senator Murante. And he will probably be...didn't expect that one to go that quickly. (Laughter) I should have told him, I guess; I just didn't think of it. [LB1104 LB888]

SENATOR JOHNSON: I didn't know that either. [LB888]

SENATOR KARPISEK: Welcome, Senator Murante; welcome back, you traitor. (Laughter) [LB888]

SENATOR MURANTE: It's always wonderful to get such a warm response here in the General Affairs Committee. But it is wonderful to be back; I have to applaud Senator Watermeier on his brevity. (Laughter) But that is what... [LB888]

SENATOR KARPISEK: I said I should have mentioned that to you this morning, and I forgot. [LB888]

SENATOR MURANTE: All right, thank you, members of the General Affairs Committee. For the record, my name is John Murante, M-u-r-a-n-t-e. I represent Legislative District 49 in the Nebraska Legislature, which represents Sarpy County...northwest Sarpy County: Gretna, Chalco, and portions of Papillion and La Vista. And I'm here today to introduce LB888. Now, as we all know, bills come to us from a variety of sources. This one came out of personal experience for me. Actually, on election night my wife and I went out to get a bottle of champagne to celebrate a victory. And we were told that we couldn't purchase the bottle of champagne and take it back to our house, but the public policy of Nebraska said we could consume the bottle of champagne at a bar and then drive home, having consumed the bottle of champagne. And I said, "Who came up with

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that law; and who could do something about it?" And that's when I realized, hey, I'm a state senator; I could fix it. So...so that is what I have brought before you today. It maintains...as far as I'm concerned, I think this was an oversight by the Legislature in years past. As you know, this Legislature has given the local control to municipalities and political subdivisions to determine if they want to sell alcohol on premises, for consumption on premises, up until 2:00 a.m. This would permit those same political subdivisions from authorizing off-sale liquor sale as well. And I think this is good public policy, because right now we are creating the practical reality that if you're a person who is out and about and is out having a drink at a local establishment, you can continue consuming alcohol at the bar of your choice until 2:00 a.m. But you cannot drive home...go to a local convenience store and consume the alcohol in the safety of your own home. To me, this will, if we pass this...first of all, it's local control; but second, I do think it is going to minimize the number of people who are out and about driving after having to make the choice of consuming alcohol at a bar for an additional hour. Now they can do it in the safety of their own home and make a more responsible choice. So that is why I introduced this legislation before you today, and I hope that you will support it and send it to the floor of the Legislature. [LB888]

SENATOR KARPISEK: Thank you, Senator Murante. [LB888]

SENATOR MURANTE: Thank you. Um-hum. [LB888]

SENATOR KARPISEK: Do we have any questions? Senator Johnson. [LB888]

SENATOR JOHNSON: Thank you... [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR JOHNSON: ...Chairman Karpisek. Thank you... [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR JOHNSON: ...John, for bringing this. [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR JOHNSON: I sat as mayor of Wahoo when we first looked at the legislation to allow bars till 2:00. [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR JOHNSON: Do you know what...how many entities out there that went to the 2:00 or stayed at 1:00? [LB888]

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SENATOR MURANTE: I will say every municipality that I have had interaction with--Omaha, Lincoln, Gretna, I believe all the municipalities in Sarpy County--have. I don't have the complete list of everything in the state of Nebraska, but it seems like it swept the state pretty quickly. [LB888]

SENATOR JOHNSON: Well, I do know that Wahoo did not. [LB888]

SENATOR MURANTE: Um-hum. Um-hum. [LB888]

SENATOR JOHNSON: And Saunders County, as a county, for those that they have jurisdiction... [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR JOHNSON: ...I don't believe did. But I think we had one community, Yutan... [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR JOHNSON: ...close to Omaha... [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR JOHNSON: ...that did that. [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR JOHNSON: I...I...you...you pointed out that they'd be able to take that home with them... [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR JOHNSON: ...and drink it. I guess my concern is, okay, I can't consume it inside, but I can go out, sit in my car or something else, before they went home. That's my initial concern. Do you have any thoughts on...? [LB888]

SENATOR MURANTE: Well, I think if people are going to break the law, I think there...there is not a whole lot that we can do if somebody is going to go sit in their car and drink... [LB888]

SENATOR JOHNSON: Yeah. [LB888]

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SENATOR MURANTE: ...you know. That's...I wish there was a law...we've already passed a law prohibiting it. I wish there was something more that we could do. I don't think this will particularly impact that at all because the access is there. But, to me, it allows people to go home and drink without being forced to remain in the bar, which is the policy we have right now. [LB888]

SENATOR JOHNSON: Okay. Thank you. [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR KARPISEK: Thank you. Senator Schilz. [LB888]

SENATOR SCHILZ: Thank you, Senator Karpisek. Senator Murante, good afternoon. Can you tell me, is this...would you have to have one to have the other, or are these two things mutually exclusive? [LB888]

SENATOR MURANTE: No, they're mutually exclusive. And we...we're fairly cautious about that. We talked about a number of different approaches that we should take. Ultimately, what we said was, even if a municipality already went through the process of saying you can have on-site liquor sales till 2:00, we wanted them to go through the motions again, because it is a different public policy question. With that said, I can't conceive of a reason why a municipality would choose to allow people to drink at a bar until 2:00 but prohibit people from taking liquor home until 2:00. I could maybe see the opposite direction, where a municipality would say, you can buy a six-pack at a convenience store and take it home, but you can't drink it at a bar and drive home. That seems like a more dangerous public policy, which is where we're at right now. But this doesn't require them to make that decision; it's up to the political subdivisions. [LB888]

SENATOR SCHILZ: Right. So they could go one or the other or both. [LB888]

SENATOR MURANTE: Or both, um-hum. [LB888]

SENATOR SCHILZ: Right. Okay, thank you. [LB888]

SENATOR KARPISEK: Thank you, Senator Schilz. Senator Bloomfield. [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR BLOOMFIELD: This is more of a comment than anything: you weren't too confident Election Day, or...? [LB888]

SENATOR MURANTE: A win is a win, Senator Bloomfield. (Laughter) [LB888]

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SENATOR SCHILZ: Poor planning. [LB888]

JOSH EICKMEIER: Is he going to close? [LB888]

SENATOR KARPISEK: Are you going to close? [LB888]

SENATOR MURANTE: I'll stick around just to see who we have to testify. [LB888]

SENATOR SCHILZ: One more question. [LB888]

SENATOR KARPISEK: Senator Schilz has a question. [LB888]

SENATOR MURANTE: Okay. [LB888]

SENATOR SCHILZ: Senator Murante, for the record... [LB888]

SENATOR MURANTE: Uh-huh. [LB888]

SENATOR SCHILZ: ...would you please pronounce your name for me? [LB888]

SENATOR MURANTE: You nailed it, Senator Schilz. (Laughter) But "muhr-ANN-tee" works, Senator "SHEE-uhlz" or "SHILLS" or whatever it is. [LB888]

SENATOR SCHILZ: Sorry, sort of a waste of a question. [LB888]

SENATOR KARPISEK: Well, that's all right. I'd get "KARP-ee-shehk" in there too, (laughter) because that gets butchered all the time too. [LB888]

SENATOR MURANTE: Senator "Cohsh" completely agrees with us. (Laughter) [LB888]

SENATOR KARPISEK: I don't know, Senator Murante, that this was an oversight. I kind of remember... [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR KARPISEK: ...through this that there was some give-and-take and... [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR KARPISEK: But I think this was Senator Rogert's bill... [LB888]

SENATOR COASH: My amendment. [LB888]

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SENATOR KARPISEK: Oh, and then it was yours? Okay. So... [LB888]

SENATOR COASH: It will be on my gravestone. [LB888]

SENATOR KARPISEK: No, hopefully later than sooner. But...I see the problem. And although I don't stay out till 1:00 or 2:00 very often anymore--I'd like to--but people's...yeah, they can't...if they want off-sale, they have to get it at 1:00... [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR KARPISEK: ...go put it in their vehicle... [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR KARPISEK: ...stay in the bar till 2:00, and then leave. [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR KARPISEK: So I do see what you're trying to do. Any other questions? Seeing none, thank you. Do we have any proponents for LB888? Good afternoon. [LB888]

KATHY SIEFKEN: Good afternoon, Senator Karpisek. My name is Kathy Siefken. I'm the executive director of the Nebraska Grocery Industry Association, here in support of LB888. And we thank Senator Murante for bringing the bill. Did I do that...? [LB888]

SENATOR KARPISEK: No, you missed it. [LB888]

_____ : You missed it. [LB888]

SENATOR KARPISEK: "Muh-ANN-tee," like "duhr-ANN-tee." [LB888]

KATHY SIEFKEN: "Muh-ANN-tee"? [LB888]

SENATOR MURANTE: Yes, you got it. [LB888]

KATHY SIEFKEN: Okay (laugh). The section of the bill that we're particularly interested in is the Sunday morning sales. I know that Lincoln and Omaha have both passed local ordinances allowing for the sale on Sunday mornings. The other communities that have...there are several other communities that have not done that. The Sunday morning sales are...it's rather burdensome, because those people that are in communities that have not passed the Sunday morning sales have to rope off or put signage in front of all of their displays. Customers come up and they want to purchase

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alcohol at 11:50, and they're on the way to the lake and they can't purchase...it would just be so much easier if we would be allowed to do that. So we would especially ask you to pass that section of the bill on. As far as the...moving the sales time from 1:00 to 2:00, when I talked to my members, that didn't excite them quite so much as the Sunday morning sales. I am sure no one would be upset if that happened. But it's the Sunday morning sales that people are really interested in. With that, if you have any questions... [LB888]

SENATOR KARPISEK: Thank you. Senator Bloomfield. [LB888]

SENATOR BLOOMFIELD: I don't necessarily disagree, but the idea that somebody is going to come in at 11:59, having suddenly decided they're going to go to the lake, I would have thought they'd made that decision a little earlier in the day. [LB888]

KATHY SIEFKEN: Well, when you're on the way to the lake and you're packing the kids and the coolers and everything else, sometimes your timing is off a little bit. [LB888]

SENATOR BLOOMFIELD: Okay. [LB888]

KATHY SIEFKEN: And, actually, we've been guilty of doing that, too, where we go to the store and it's two minutes before 12, and you think...so you've got to...you have to hang around. And, frankly, customers don't like hanging around; they want to pay for their items and get on with their entertainment. [LB888]

SENATOR KARPISEK: And so if we did do the 2:00 a.m., though, a store that didn't want to wouldn't have to. [LB888]

KATHY SIEFKEN: Wouldn't have to; that's correct. [LB888]

SENATOR KARPISEK: Um-hum. Any other questions? I think we've talked about the Sunday mornings before, too, and, say, well, somebody might run to town to...they're going to have people in for dinner or for lunch on Sunday after church, and they want to pick up a bottle of wine and... [LB888]

KATHY SIEFKEN: Um-hum. [LB888]

SENATOR KARPISEK: ...and they can't. [LB888]

KATHY SIEFKEN: And there's the mimosas at the buffets around town. Now, Lincoln has solved that problem. But that was part of the testimony also when we talked about this, where people would like to go into those buffets on Easter morning, where it's a special morning, and the family goes out after church and it's before lunchtime. [LB888]

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SENATOR KARPISEK: Any other questions? Seeing none, thank you. [LB888]

KATHY SIEFKEN: Thank you. [LB888]

SENATOR KARPISEK: Our trap worked, guys. Oh, he got out of it. [LB888]

JIM MOYLAN: I had my little Bibles in my pocket. [LB888]

SENATOR KARPISEK: (Laugh) Welcome. [LB888]

JIM MOYLAN: Mr. Chairman and members of the committee, I'm Jim Moylan, J-i-m M-o-y-l-a-n, representing the Nebraska Licensed Beverage Association, here in support of this legislation. I was around when they did the 2:00 a few years back, and as I recall, I thought an amendment was added, on the floor, to not allow package sale till 2:00. Is that correct? Josh, do you remember? [LB888]

JOSH EICKMEIER: I don't recall. [LB888]

JIM MOYLAN: Well, I remember it was offered, and I thought it was on the floor. So now let's just make it uniform. Any questions, I'd be happy to try to answer them. [LB888]

SENATOR KARPISEK: Seeing none, thank you, Mr. Moylan. [LB888]

JIM MOYLAN: Thank you. [LB888]

SENATOR KARPISEK: Good afternoon. [LB888]

TIM KEIGHER: Good afternoon, Senator, members of the committee. That's my way around...of not pronouncing anybody's name wrong, is "Senator." (Laughter) My name is Tim Keigher, and if all of you could pronounce that, we're doing good; it's K-e-i-g-h-e-r. I appear before you today as the executive director of the Nebraska Petroleum Marketers and Convenience Store Association, in support of LB888. I really don't have much else to add, but, you know, we would like to have the ability to sell to 2:00 a.m., too, if it's approved by the local officials. So with that, happy to answer any questions. [LB888]

SENATOR KARPISEK: Thank you. Any questions? Seeing none, thank you. Further proponents. Welcome. [LB888]

JOE KOHOUT: Chairman Karpisek and members of the General Affairs Committee, Joe Kohout, K-o-h-o-u-t, appearing today on behalf of our client the Associated Beverage Distributors of Nebraska, Nebraska's 16 family-owned beer wholesalerships. We appear in support of LB888 and really can't add much more than was previously said. So I'll let

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that stand as our testimony. [LB888]

SENATOR KARPISEK: Thank you. Any questions? Thank you, Mr. Kohout. Any further proponents? Seeing none, do we have any opponents? Welcome. [LB888]

NICOLE CARRITT: Thank you. Good afternoon, Senator Karpisek, members of the committee. My name is Nicole Carritt, and I'm the executive director of Project Extra Mile. [LB888]

SENATOR KARPISEK: Can you spell that, Nikki, please? [LB888]

NICOLE CARRITT: Yes, I can; it's N-i-c-o-l-e C-a-r-r-i-t-t. We're a network of community partnerships across the state working to prevent underage drinking and youth access to alcohol. And we're here today in opposition to LB888. And we just want to share some brief statistics with you. Nebraska ranks Number 4 in the country for our adult binge drinking rates. And the connection between youth consumption and adult consumption is widely recognized. Furthermore, in 2010 youth in Nebraska consumed more than 26 percent of the alcohol sold in the state. According to a recent study published in the American Journal of Preventive Medicine, the cost of excessive alcohol consumption in Nebraska in 2006 reached over \$1.1 billion, or about \$1.57 per drink. Almost three-quarters of these costs were due to binge drinking; it's defined as consuming four or more alcoholic beverages per occasion for women, or five or more drinks per occasion for men, the report said. Additionally, in 2010, the Community Preventive Service Task Force, based on a systematic review of all of the available research, recommended several evidence-based strategies to prevent excessive alcohol consumption and related harms, one of those recommended strategies being maintaining existing limits on hours of alcohol sales. The proposal goes against the available science and the work of many across the state working to protect public health and safety by utilizing the science to shape our state's alcohol landscape. I certainly understand what Senator Murante was saying; I would have to agree. And our concern rests in the fact that...not that people will just go into an establishment; our concern is that people will not...choose to stay at the establishment until 2:00 a.m., and then basically they'll grab a 12-pack to go. So, you know, they'll stay until 1:58 and then grab a 12-pack or something to go and, further, go home and consume off the premise. So our...we'd be happy to provide additional information and research relevant to the policy decision. With that, I'd be happy to answer any questions, if members of the... [LB888]

SENATOR KARPISEK: Thank you. Any questions? Senator Bloomfield. [LB888]

SENATOR BLOOMFIELD: Thank you. So your opposition, it would appear, is more for all the 2:00 sales rather than the carry-out? [LB888]

NICOLE CARRITT: We have concern with that. But, basically, in this instance we just

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want to maintain, if we can, the hours of alcohol sales; we know that that's one evidence-based strategy. So we appreciate the nod that the Legislature gave to local communities to determine whether or not they wanted to. In this instance, we just want to share the research and let the Legislature know that...what the available evidence says in this instance. [LB888]

SENATOR BLOOMFIELD: Okay. Thank you. [LB888]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Other questions? Seeing none, thank you. [LB888]

NICOLE CARRITT: Thank you. [LB888]

SENATOR KARPISEK: Do we have further opponents to the bill? Seeing none, do we have any neutral? Welcome, Mr. Rupe. [LB888]

HOBERT RUPE: Thank you, Senator Karpisek. I'm sorry, I'm "Hobart," I mean, Hobert Rupe. You know, I never get that one...nobody ever mispronounces my name. [LB888]

SENATOR KARPISEK: (Laugh) Yeah. [LB888]

HOBERT RUPE: Hobert Rupe, known as Hobie, executive director of the Nebraska Liquor Control Commission. And we're appearing neutral here primarily for evidentiary purposes. First off, to answer Senator Johnson's question, if you ever want to find out that information, how many who voted it in, it's available off our Web site. And as close as my eyes could look on my little phone back there when I pulled it up, I think we have 114 jurisdictions which have voted in 2:00 for on-sale consumption. Those would include cities and counties. So...sorry. The, you know, the...we're neutral on this one. You know, I can answer any questions. I can tell you, just to clarify, some of my recollections of...yeah, I think you're right. It was not an oversight as Senator Murante had thought. There was a debate. If you'll remember, the main push behind this was twofold. First, there was a lot of...after certain events had been held in Omaha, like the Olympic swim trials and the baseball thing, which would go late at night, people were complaining that those weren't releasing until 11:00-11:30. Therefore it was really hard for somebody to go out and recreate at local licensed establishments when, before, they ran up right against the 1:00 time close. The other issue was the age-old question of how people would leave bars at 12:30 in downtown Omaha to cross across the river to Iowa, which has a 2:00 closing time. Especially with the casinos and other things, people were thinking they were losing revenue across the state. And I know that's an issue that the Chairman is very aware of, on certain issues. This is...what's being handed out is going to be for the next one, I believe; it's for LB863. I can tell you, anecdotally, most of the evidence we have...I reached out to the Nebraska State Patrol, both in Omaha and in Lincoln, to see if they'd had a lot of problems with the 2:00 close.

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The anecdotal evidence is...has been: no. Working with LPD on issues, they didn't...what they saw when they went to a 2:00 on-sale was you had a soft close. Instead of having everybody leaving at 1:00 to 1:15, piling out onto O Street, people would start leaving about that 1:00 to 2:00. So you're having the same amount of people, but they're leaving over the scope of an hour and 15 minutes to an hour and a half, rather than 15 minutes. So I'd be happy to answer any questions regarding the implementation of the earlier statute. [LB888]

SENATOR KARPISEK: Thank you. Senator Coash. [LB888]

SENATOR COASH: Thank you, Chairman. Hobie, the 2:00 on-sale consumption was an amendment that I carried from Senator Rogert's bill. [LB888]

HOBERT RUPE: Yes. [LB888]

SENATOR COASH: Didn't we...did we put in there a supermajority? [LB888]

HOBERT RUPE: No, that was...that was amended on the floor, I believe. I believe Senator Christensen moved for a supermajority. [LB888]

SENATOR COASH: Isn't it...is it currently a supermajority, though... [LB888]

HOBERT RUPE: I believe so. [LB888]

SENATOR COASH: ...under the current law? [LB888]

HOBERT RUPE: No...or is it...well, maybe... [LB888]

SENATOR COASH: It wouldn't be in the bill...well... [LB888]

HOBERT RUPE: Yeah, I got the bill here. [LB888]

SENATOR COASH: ...I...it may or may not be. I don't..."Eik" and I were trying to... [LB888]

HOBERT RUPE: Well, maybe it could be on, because...or was the supermajority on when...on the allowing the Sunday sales, under Senator Cornett's bill? [LB888]

SENATOR COASH: I believe...we could sort through that later. I'm sure you have that...can get that for us. Have you had any, in front of the commission, any license violations for retail sale past 1:00? [LB888]

HOBERT RUPE: No. Actually, we might have had one or two, now that I think about it.

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The problem with it was there is confusion out there. A lot of people think that if they can sell you a drink, why couldn't they sell you a six-pack. And so we, you know...and a lot of times the jurisdictions think that. We've had to...we've gotten...as you know, Part One of the requirements of the earlier bill was to send notifications, so we could have it on our Web site, so law enforcement could reference who had the 2:00. And we've had to have discussions with certain jurisdictions, saying, wait a minute, you can't allow 2:00 off-sale. So, you know, there has been some confusion, so, you know, from a, I guess, efficiency standpoint, having it uniform would probably be good, because there has been some confusion not only by the licensees but also by the jurisdictions, what they can allow. [LB888]

SENATOR COASH: So have you had any license violations? [LB888]

HOBERT RUPE: I think we've had two. I think we had one person...we had one person, I think we gave him a warning. [LB888]

SENATOR COASH: Okay. [LB888]

HOBERT RUPE: Because the locals said they could do it, we were like, they were wrong too. [LB888]

SENATOR COASH: And I don't expect you to speak for law enforcement, but I am aware that law enforcement will do compliance checks with regard to on-sale consumption and serving intoxicated customers. Do you...are you aware of law enforcement doing compliance checks on the retail side? [LB888]

HOBERT RUPE: You mean for after-hours issues? [LB888]

SENATOR COASH: Yeah. [LB888]

HOBERT RUPE: Generally not. Generally, after-hours issues come from complaints. They're usually complaint-driven. Most of our complaints...most of our after-hours actually come...have the guy driving through at 3:00 in the morning, seeing a whole bunch of lights on at the bar and a lot of people there, worried something nefarious is going on, and going in and finding that they are still serving. So, you know, as far as I know, you know--and this is my own recollection of what's been in front of the commission--we haven't seen an organized search for that aspect of it, like they do with compliance checks for minors. And most times when they go out and do a premise inspection, usually it's not anywhere close to closing time. Usually it's earlier in the day. [LB888]

SENATOR COASH: Yeah. Thank you. [LB888]

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SENATOR KARPISEK: Thank you, Senator Coash. Any further questions? Seeing none... [LB888]

HOBERT RUPE: Thank you. [LB888]

SENATOR KARPISEK: ...thank you. Do we have any other neutral testimony? I neglected to read into the record two letters of opposition: one from Lanette Richards, project coordinator for Monument Prevention Coalition; and another in opposition from Gregory L. Vandenberg. I guess I don't know exactly who he's with, but it is in opposition, anyway. (See Exhibits 2 and 3) Senator Murante, to close. [LB888]

SENATOR MURANTE: I'll be very brief, just to say I appreciate the letters that were sent in--I got copies of those--and the testimony from Project Extra Mile. To me, the question on the table is not when alcohol can be consumed--we've already set that policy in the state of Nebraska at 2:00 in the morning--or even if or how much alcohol can be consumed. The question on the table with my bill is where it can be consumed: do you want it at a bar, or do you want it at somebody's house? And, to me, the public policy that we have right now of saying you have to...if you want to drink until 2:00 a.m., you have to do it at a bar and drive home, is bad public policy. And creating the option that people can leave an hour earlier and drink in the safety of their own home is a much safer and more appropriate public policy to have. And with that, I'll close and encourage your support. Thank you very much. [LB888]

SENATOR KARPISEK: Thank you, Senator Murante. Senator Crawford. [LB888]

SENATOR CRAWFORD: Thank you, Chairman Karpisek. And thank you, Senator Murante. [LB888]

SENATOR MURANTE: Um-hum. [LB888]

SENATOR CRAWFORD: I just wanted to clarify one issue that was brought up earlier in the testimony. Does your bill address Sunday sales at all? [LB888]

SENATOR MURANTE: I was poring through it. I'll talk with the representative from the grocery association to see if there was something there, but that wasn't my intention anyway. [LB888]

SENATOR CRAWFORD: Okay. Right. Okay. Thank you. [LB888]

SENATOR KARPISEK: Thank you, Senator Crawford. Any other questions? Seeing none, that will end the hearing on LB888. [LB888]

SENATOR MURANTE: All right. [LB888]

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SENATOR KARPISEK: Thank you, Senator Murante. Wish you could stay. (Laughter) Well, no, we're keeping her too. I will now turn the chair over to Senator Coash as we get ready for LB863. [LB888]

SENATOR JOHNSON: We're keeping this short. [LB888]

SENATOR KARPISEK: Short? Okay. I'm only 5' 10". (Laugh) [LB888]

SENATOR COASH: All right, we are going to open the hearing on LB863. Senator Karpisek. [LB863]

SENATOR KARPISEK: Thank you, Senator Coash. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. And I represent the 32nd Legislative District. LB863. Under the current law, the Nebraska Liquor Control Act requires a petition process and voting requirements and procedures to allow the sale of hard liquor by the drink. The Nebraska Liquor Control Commission stated that the...in its legislative letter that this provision is antiquated and should therefore be repealed. So right now, a city or a municipality has to petition and process voting requirements and procedures to allow the sale of hard liquor by the drink. I think it's just old, kind of old, to say that they can't just decide. So, anyway, that's...that's it. [LB863]

SENATOR COASH: So, Senator Karpisek, we've got this list of towns that have not voted it in. My guess is you could go get a liquor...a drink by the glass in these communities. [LB863]

SENATOR KARPISEK: I would think so. I saw Wymore is on there, and I worked there for a little bit, and I think that you can. I wouldn't swear by it; I did not have one. [LB863]

SENATOR COASH: (Laugh) So... [LB863]

SENATOR KARPISEK: But I could go back, I guess. [LB863]

SENATOR COASH: We'll let the executive director address that. Any questions for Senator Karpisek? Seeing none, we'll go on to the testimony, and we'll start with the proponents of LB863. Welcome back, Hobie. [LB863]

HOBERT RUPE: (Exhibit 1) Thank you. Once again, my name is Hobert Rupe, H-o-b-e-r-t R-u-p-e, executive director of the Nebraska Liquor Control Commission. And good thing you put the lights up there, so my history lesson will be short...short-lived, hopefully, on this one for you. You know, the reason why this is archaic is, in 1935, after the act was passed, to have liquor by the drink, you would have to have...the cities would have to have an affirmative vote. You could have a beer place, a beer joint, but to

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actually go in and have a traditional saloon, you had to have...the locals had to vote it in. And remember, one of the reasons for Prohibition was the proliferation...all the sins of the saloon era. Okay. Now, what you didn't have to vote in: what were called "bottle clubs." Now, a bottle club, under its true nature, was a place where you would take your bottle of whiskey or rum or whatever, you would keep it at that location; you know, sometimes you had little cabinets and locks. And you would go there and then you'd be...the bottle club would sell you the mix, and someone would actually mix you the drink out of the liquor you already owned. So they weren't profiting from it, the sale, supposedly, although, you know, apparently a Coke cost a lot more through that purpose than otherwise. Nineteen eighty-three, the Legislature pretty much did away with that fiction when they changed the law and said that a bottle club could sell to a...could sell, themselves. And furthermore, they said they could sell to people who aren't even technically members of their club. You know, it used to be you'd have to go and get your little card, which might have been a one-day membership, you know. They did away with the legal fiction, and they knew what the fiction was. So in 1983, that sort of happened. Go up to 2004-2005--it went into effect in 2005--when we went from 13 retail license types down to the 5. We changed what was called the old "M" Class license, which was the bottle club license...by operation of law became a Class "I" liquor license, the traditional restaurant license, which allows beer, wine, and spirits on the premise. That was as...by statute. So, okay. So what's happened now? The list you see are the places which have not technically voted in liquor by the drink. And you're absolutely right, in every single one of those you can go get a cocktail. But what you're doing is the licensee has got to buy not one license, the Class "C" liquor license, but two: they would have to buy an "I" and a "D" if they wish to sell both on- and off-sale as a full-on bar license. Now, you know, it was sort of an unintended consequence, I think, when we didn't clean up correctly in '05; we sort of left it there the way...and moved forward. One of my newer commissioners at first said, well, why do we have "I's" and "D's"; don't they do the exact same thing that a "C" can do? Well, absolutely, you're right, Commissioner. And so we had to explain it. So we think that in today's society, given the past action in '83 and '05, this just would clear up this, get rid of this whole...you know, people think: do I have to have a vote? And then, you know, we could have, you know, ease a little bit of the regulatory burden on some of those licensees by reducing the number of licenses that they have to get. I would be happy to answer any questions. [LB863]

SENATOR COASH: All right. Thank you, Hobie. Any questions for Hobie? Senator Crawford. [LB863]

SENATOR CRAWFORD: Thank you. Thank you, Chair. I'm new to this process, so is it fair to say, then, that establishments in these cities would get a Class C license? [LB863]

HOBERT RUPE: They could get a "C" license, yes. [LB863]

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SENATOR CRAWFORD: Okay. And what is the involvement of the local community in that decision making? [LB863]

HOBERT RUPE: The same as any other license. Any retail license, the procedure is, once there's an application filed with the commission, it's then sent to the Patrol for the background check, to the health department, and the Fire Marshal; but it also goes to the local governing body, and they get to make an opinion... [LB863]

SENATOR CRAWFORD: Okay. [LB863]

HOBERT RUPE: ...whether they wish a license. Now, if they vote to deny a license, they cause a hearing in front of the commission... [LB863]

SENATOR CRAWFORD: Okay. [LB863]

HOBERT RUPE: ...automatically; I mean, it's one of the things we must have a hearing. And then they have to come down and say why, because, unfortunately, oftentimes they are correct reasons why they wish to deny, and sometimes they're not, you know. And so we have to go by the guidance we've got from the statutes and from the courts, as to what's a legitimate reason to deny one way or the other. You know, the classic example, which happened about eight or ten years ago, was they voted for...a local community voted to deny one establishment and voted to approve the exact same business model across the street because the one guy was from 20 miles away and the other guy was a local boy. The commission ended up issuing both those licenses, because they were trying to play politics with it, which happens, unfortunately. [LB863]

SENATOR CRAWFORD: Hmm. [LB863]

HOBERT RUPE: But...so they would have the same rights; they could opine. There's also rights, under the act, where they can make a motion. They can, on their own motion, cancel a liquor license, send it to appeal to the commission if the licensee so wishes. So this changes nothing. All this is going to do is, is sort of clean up the act a little bit and get rid of the fiction that makes people get two different licenses, when there's one license which does exactly what they need it to do. [LB863]

SENATOR CRAWFORD: Okay. Thank you. [LB863]

SENATOR COASH: All right. Thank you, Hobie. So...and I'll read this into the record in a moment, but we did get a letter in opposition saying that this removes some local input into the license. And you just kind of clarified that there's still some local influence on the... [LB863]

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HOBERT RUPE: Yeah. [LB863]

SENATOR COASH: ...granting of these licenses. So if you're a license holder in one of these communities and you're buying an "I" and a "D"...is that right? [LB863]

HOBERT RUPE: If you want to have both on- and off-sale, you have to get both license types. [LB863]

SENATOR COASH: What's the cost of each of those? [LB863]

HOBERT RUPE: \$250 for an "I"; \$200 for a "D." [LB863]

SENATOR COASH: And, then, for the community that has voted it in, you just have to get a "C." [LB863]

HOBERT RUPE: Which is \$300. [LB863]

SENATOR COASH: So it's more expensive to do the same thing in these communities than it is... [LB863]

HOBERT RUPE: And then you also have to figure out that...you also remember, under the occupation tax, they can charge twice the amount. So where they get charged \$600, you know, for the "C," they're able to charge more for...to get both license types. [LB863]

SENATOR COASH: Okay. Thank you, Hobie. Any other questions for Hobie? Seeing none, thank you. [LB863]

HOBERT RUPE: Thank you. [LB863]

SENATOR COASH: Next testimony as a proponent. [LB863]

JIM MOYLAN: Mr. Chairman, members of the committee, I'm Jim Moylan, J-i-m M-o-y-l-a-n, representing the Nebraska Licensed Beverage Association. I think you pretty much heard all the reasons why we probably get...ought to get rid of this antiquated law. I'll tell you how the bottle shops came in. It was in the mid-'70s, when the interstate was going through, hotels were popping up, other establishments. That's when...and I think it was Senator Terry Carpenter had the bill, and they passed the bottle club bill. And then as that evolved, you know, it came up to where it got to become a regular liquor license. So I recommend you support the bill. [LB863]

SENATOR COASH: All right. Thank you, Mr. Moylan. [LB863]

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JIM MOYLAN: Any questions? [LB863]

SENATOR COASH: I don't see any. Thank you. [LB863]

JIM MOYLAN: Thank you. [LB863]

SENATOR COASH: (Exhibit 4) Take the next testifier in support of LB863. Seeing none, we'll take testimony in opposition to LB863. And, seeing none, we'll take any neutral testimony. Seeing none, Senator Karpisek waives. Before we close this hearing, though, I will read into the record one letter of opposition from Lanette Richards, the project coordinator of Monument Prevention Coalition. And we'll close that hearing and open on LB866. Senator Karpisek. [LB863 LB866]

SENATOR KARPISEK: Thank you, Senator Coash. Members, again for the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. LB866 is intended to increase the number of commissioners for the Nebraska Liquor Control Commission from three to five. Right now, no more than two of the three can be from the same political party, and no two can live in the same congressional district. LB866 would increase the number from three to five and change the member restrictions to no more than three from the same political party and with at least one member from each congressional district. Of the two additional members, one term would end May 2015, and the other would end May 2017. After those dates, the terms will be for six years, the same length as the current commissioners' terms. The main reason that I brought this bill is, with only three commissioners and if one is sick...or, when I first came to the Legislature, I think one of their members had, had some serious health issues, I think maybe had a heart attack, couldn't come to the hearings. That leaves two people. And if they don't agree on something, it's 1-1. And I think that there was a big issue there for a while on some cases pending, and maybe Hobie can tell us a little more about that. But things just couldn't get done because it was tied 1-1. I do realize there's a little bit of a fiscal note on this because we would increase it. But I just think with the level of...amount of money that comes in--is it \$30 million a year--and we only have three people there. One of the current members is an attorney and has to recuse himself often...not often, sometimes, again leaving two people. And it just seems to me that only those two...that's a whole lot of things for two people. That's the reason for the bill. [LB866]

SENATOR COASH: All right. Thank you, Senator. Senator Johnson. [LB866]

SENATOR JOHNSON: Thank you, Chairman. I think too small is...whether it's a county commissioner board or whatever it is, you have that conflict, and sometimes two are always on the same side. I agree with...a larger one would be appropriate. Would this...this would also change the quorum, I would assume. And I don't know if that's addressed here or not. [LB866]

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SENATOR KARPISEK: Well, I don't know that it's addressed, but it would be...I think... [LB866]

SENATOR JOHNSON: But...yeah, I don't know. But it, I mean, I would assume it would change it to three. [LB866]

SENATOR KARPISEK: I would assume it would change it to three. [LB866]

SENATOR JOHNSON: I don't know if that has to be written in or not, but... [LB866]

SENATOR KARPISEK: That is a good question, Senator, and I'll ask... [LB866]

SENATOR JOHNSON: So we don't... [LB866]

SENATOR KARPISEK: ...legal counsel. [LB866]

SENATOR JOHNSON: So we can eliminate those questions on the floor? [LB866]

SENATOR KARPISEK: (Laugh) Hopefully, before then, yes. [LB866]

SENATOR JOHNSON: Thank you. [LB866]

SENATOR COASH: All right, thank you, Senator Johnson. Senator Bloomfield. [LB866]

SENATOR BLOOMFIELD: Thank you. Senator Karpisek, you, in your bill, you take it down to where there would be at least one appointee from each congressional district. Can there be more than two from one congressional district? [LB866]

SENATOR KARPISEK: Yes, there could. I guess three... [LB866]

SENATOR BLOOMFIELD: Should there be? [LB866]

SENATOR KARPISEK: Well, that's a good question. And as I was reading that, I thought of that too, that...should there only be able to be two? [LB866]

SENATOR BLOOMFIELD: Yeah, I think we want to hold that to two, if possible. [LB866]

SENATOR KARPISEK: All right. That's...then that's not a bad idea. And I didn't think of it till now either. I don't know what the... [LB866]

SENATOR BLOOMFIELD: You could probably talk to the committee Chair and see if that could be fixed here. [LB866]

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SENATOR KARPISEK: Probably the committee counsel would be better, Senator Bloomfield. (Laughter) I don't know that there's a lot of people lining up to be on this board. So that might be a little bit of a problem, but... [LB866]

SENATOR COASH: It pays... [LB866]

SENATOR KARPISEK: ...but I do agree. [LB866]

SENATOR COASH: It does pay better than the Legislature. [LB866]

SENATOR KARPISEK: It does pay better than the Legislature. What doesn't? (Laughter) [LB866]

SENATOR COASH: Senator Karpisek, do you know, is the...and if you don't, I'm sure Hobie will answer, so punt to him if you want to. But does the Liquor Commission do business outside of their hearings, where they might be subject to, like, the Open Meetings Act? [LB866]

SENATOR KARPISEK: You will have to ask Hobie that. I know Josh has gone; I've never gone to one of the hearings. [LB866]

SENATOR COASH: Okay. Because...and the reason I ask is I carried a bill similar to this for the Wyuka board, and the reason was, is that they only had three, and two of them couldn't get together and have lunch and talk about what they were responsible for without violating Open Meetings Act, because two is a quorum out of three... [LB866]

SENATOR KARPISEK: Right. [LB866]

SENATOR COASH: ...so I was curious about that. So we'll... [LB866]

SENATOR KARPISEK: Good question. [LB866]

SENATOR COASH: ...check with Hobie. Any other questions for Senator Karpisek? Seeing none, we'll move on to the testimony. We'll take the first testifier in support of LB866. Seeing none, we'll take testimony in opposition of LB866. [LB866]

JIM MOYLAN: Again you probably won't need the green light. Jim Moylan, J-i-m M-o-y-l-a-n, representing the Nebraska Licensed Beverage Association, the state association of liquor retailers. I'm here in opposition to it. I've been around the commission a long time over the years, you know. Except for a couple of times, they've always had pretty levelheaded, you know, commissioners on there. I would just recommend we keep the three--and you won't have the added expense--and that if

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you're going to advance the bill for five, I would recommend that, if you're going to add two, that you just make them at-large in the state, so not by districts. Then you will still have three by congressional districts and not more than two of one party, if that's what you're going to do. So I just recommend we keep the three. Any questions? [LB866]

SENATOR COASH: Seeing none, thank you, Mr. Moylan. [LB866]

JIM MOYLAN: Thank you. [LB866]

SENATOR COASH: Take the next testifier in opposition of LB866. Seeing none, we'll go to neutral testimony. Welcome back, Hobie. [LB866]

HOBERT RUPE: Members of the General Affairs Committee, I'm Hobert Rupe, H-o-b-e-r-t R-u-p-e, executive director of the Nebraska Liquor Control Commission; we're appearing neutral. There was...just so you know why we're appearing neutral, there was a debate within the commission about whether it was the appropriate role for us to take a position on how we're constituted. It's clear that there is an ability and a duty upon the commission to make recommendations for enforcement and improvements to the act, but there was some debate whether this was appropriate. So we're appearing neutral. And so I'd be happy to answer any technical questions for you about how the operations of it works. I will let you know that the open meetings question you brought back is often an issue for me, with only two of the three. You know, you can't...it's hard going out to lunch, you know. And if I'm there, I'm going to be saying, you can't talk about business, you know, you can't talk about issues. And even more is what comes out, is, you know, liquor is not just a state issue; it's a national issue. And we've been very active in the National Conference of State Liquor Administrators, and so often I try to get members of the commission to go there as well, and myself. And so if I have more than two of them, I specifically announce that they're going to be there, you know, hearing liquor stuff, you know. So, hopefully, it's not an open meetings violation. But you're absolutely right. I mean, with only two of the...you know, and the other problem, what it is, it's really hard to then sort of have...if one of them wants to take a...like sort of do...you know, a couple years ago when we were looking at the penalty guidelines, you know, one person had to come up with her own ideas and come forward; whereas, you know, a lot of times on a city council or something, they'll have two members sort of come forward, you know, sort of a working committee along with staff. So it is a little bit of an issue in that regard, you know. But otherwise, you know, Senator Karpisek was exactly right. You know, the late Chairman Logsdon had a heart attack the same exact month I was hired as director. So for my first two months as director, I only had two commissioners. Now, luckily, you know, they were able to agree. But the problem you've got is it sort of cuts both ways on that case. You know, let's say there's a violation allegation. They both either have to agree that somebody violated the act, if there's only two of them; so it sort of benefits the licensee that they can't agree, then it's not going forward. Conversely, though, if there's a show-cause hearing or a,

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you know, or a...the city has objected, if they both don't agree to issue a license, then the license doesn't get issued. Whatever the affirming action, one way or the other, would be somewhat stymied by that issue. So there, you know, there are some issues. Now, for the most part, I will say, it's worked well. You know, it's...it, you know...but the theory behind it is you try to have, you know, right now we've got a person who owns a real estate company, a person who's a vice president of the Nebraska Furniture Mart, and an attorney, so we've got a wide breadth of professional people involved, you know, right now. So, you know, so I don't think there's been a problem getting quality people on the commission. You know, most times there's multiple people, you know, I don't hear of everybody who applies to the Governor, but sometimes I hear rumors. And I know usually when there's an opening, there is more than enough interest. So I'm not sure if the comment that was made would be justified, because it is a pretty...I mean, it's a pretty, you know, prestigious position. And, you know...and it's a little more interesting than a lot of other things if you want to be of some service to the state. So I'd be happy to answer any questions. [LB866]

SENATOR COASH: Thank you, Hobie. Okay. I couldn't think of the question I wanted to ask. All right, is there any further neutral testimony? Welcome back. [LB866]

NICOLE CARRITT: Thank you. Again, I'm Nicole Carritt, N-i-c-o-l-e C-a-r-r-i-t-t, and I am the executive director of Project Extra Mile. And we're here today in a neutral capacity on LB866. We appreciate and recognize the important and critical work of those appointed to the Nebraska Liquor Control Commission in their role to protect the health, safety, and welfare of this state. We would just respectfully request that if this proposal is to be considered further, that the bill be amended to require that one appointee have a public health or medical background and the second appointee be required to have a law enforcement or public safety background. We just believe that consistent representation from these fields would further enhance the commission's ability to protect the health, safety, and welfare of Nebraskans. So just some ideas there. Any...any questions? I'd be happy to answer them. [LB866]

SENATOR COASH: Thank you, Ms. Carritt. I don't see any questions. Thanks for... [LB866]

NICOLE CARRITT: Thanks. [LB866]

SENATOR COASH: ...your testimony. Any other further neutral testimony? Seeing none, Senator Karpisek, do you want to close? [LB866]

SENATOR KARPISEK: I think I will quickly. Project... [LB866]

SENATOR COASH: Because I thought of the question I wanted to ask. [LB866]

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SENATOR KARPISEK: Project Extra Mile neutral on one of my bills, I'm pretty happy. (Laughter) We can get along. Hobie is probably right about people wanting to serve on the commission. I guess I don't know. I kind of assumed that maybe a lot of people didn't want to, and I probably assumed wrong. So I'm glad that he did straighten that out. Again, I know that there is a little bit of fiscal impact. I just think that five is better than three if somebody is going to be gone. Like you said, it usually works out well, and I don't in any way want to infer that the commission is having a problem, because I think they do a really good job. And since I've been Chair, I think we've really done a good job of making the alcohol business more professional, and there's still a long way to go in some places. But I think we've worked very well together. I just think that for three people, it's a lot. And again, the open meetings, the quorum, the...someone being gone could make a big difference if you only have two. So I'd be glad to try to answer any other questions. [LB866]

SENATOR COASH: Senator Johnson. [LB866]

SENATOR JOHNSON: Thank you. A couple comments made: one being, a couple of them being at-large and the other being at least one person on the commission having a public health or law enforcement background. Do you see that as being a hindrance or...? [LB866]

SENATOR KARPISEK: Well, I'm not...I would have to say I like Senator Bloomfield's idea better, that there could only be two from any congressional district. I think that...rather than at-large, because then again you could have three from downtown Omaha or downtown Wilber, I guess. And I don't know that we want that. You know, I guess the committee can talk about the...what Ms. Carritt said about the law enforcement, the...I think, though, that we really would want to make sure that they know what they're talking about in this area, not just to say that someone was a State Patrolman or a sheriff and really didn't know much about the industry. Same with the healthcare person, it's something that we could talk about. I guess right offhand I don't love it, but... [LB866]

SENATOR JOHNSON: Maybe in their application for it, it might give them more credibility if they have a strong background, which would be positive. [LB866]

SENATOR KARPISEK: That is true. Maybe it could be a plus for them to have... [LB866]

SENATOR JOHNSON: Yeah. [LB866]

SENATOR KARPISEK: ...those things. We can talk about that. It wouldn't be a deal breaker to me. [LB866]

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SENATOR COASH: We did have a law enforcement person on the commission for a...or ex-law enforcement, for a short time. [LB866]

SENATOR KARPISEK: Yeah, for... [LB866]

SENATOR COASH: We confirmed and... [LB866]

SENATOR KARPISEK: ...like a month. [LB866]

SENATOR COASH: Yeah. [LB866]

_____ : A day. [LB866]

SENATOR KARPISEK: A day? Okay. (Laughter) Yeah, so... [LB866]

SENATOR COASH: So it didn't work out too well. But I did think of a question I had for Senator Karpisek. You know, I've been on this committee for going on six years now, and we often hear from license holders that, you know, timing is everything, and we...and that, you know, they need, as quickly as they can, from application to, you know, getting that...that license is very important to their business. They can have a place to do business, employees; without that license, they don't open their doors. They're always...it seems to me we've been pushed pretty hard to, wherever we could, make sure that's an efficient, quick process. Have you...are you aware of--or was it part of your decision to bring this bill that--of any time a license holder was denied because there was kind of a stalemate in the commission, so they had to wait till the next commission meeting? I mean, I understand we had some members of the industry come in and oppose it, but I'm wondering if it ever has been a... [LB866]

SENATOR KARPISEK: I don't know that it... [LB866]

SENATOR COASH: ...problem for them. [LB866]

SENATOR KARPISEK: ...really ever did. I know when Commissioner Logsdon was sick, I remember there was something going on, I can't remember the whole thing, with Project Extra Mile or maybe some of those local groups in Omaha, that...maybe someone's license wasn't being taken or something. And again, Hobie would have to...but it seemed like something did kind of drag there for a little bit. But maybe I got the wrong impression on that. I think this is trying to be proactive rather than reactive. [LB866]

SENATOR COASH: All right. Very good. Senator Bloomfield. [LB866]

SENATOR BLOOMFIELD: Any thought to four instead of five? [LB866]

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SENATOR KARPISEK: Well, we could; but then if you end up with a tie, you're...then Hobie would probably have to be the tiebreaker, and I don't think any of us want that. (Laughter) [LB866]

SENATOR BLOOMFIELD: If our concern is that one guy is going to be sick or gone, if we've got five, we're right back into the tie situation. [LB866]

SENATOR KARPISEK: Well, then that is true. Yeah, we did talk a little bit, too, about just making someone a part-time commissioner, in case someone is gone; but they'd still probably almost have to be at every one, because they'd have to be up on the issues. That's still going to have to pay for them? I don't know. But you are right, you get back to four if somebody is sick, I guess. And then I don't know what happens; I guess it sits again. Maybe we should make it nine. [LB866]

SENATOR BLOOMFIELD: Thirty-seven. [LB866]

SENATOR KARPISEK: Thirty-seven? That would be great. [LB866]

SENATOR COASH: All right. Any other questions for Senator Karpisek? Seeing none, we'll go to the final bill of the day. Once again, Senator Karpisek, for LB899. [LB866 LB899]

SENATOR KARPISEK: Thank you, Senator Coash and members of the committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k; I represent the 32nd Legislative District. LB899 deals with hard cider. Currently, there is no definition in the Nebraska Liquor Control Act for hard cider. Hard cider has been seeing a resurgence in American alcohol markets. And because hard cider is produced by the fermentation of primarily apples, it is considered a wine. As a wine, distributors must have a wine distributing license, retailers must have a wine retailing license, and the product is taxed as a wine. The issue is that the industry markets the product more like a beer, based on its packaging and alcohol content. The Nebraska Liquor Control Commission requested in its legislative letter that hard cider be reclassified as beer. LB899 is modeled after the federal regulation definition for hard cider, except that we also added pear, not just apple, in our bill, and the alcohol content of 8.5 percent in our bill, because some may be a little higher, which is the same as a bill called CIDER, C-I-D-E-R, Act that is currently being considered by Congress. I don't know if all of you have seen these; it comes in a...it looks like a beer bottle. It's fermented apples. And it is just like a beer; it looks like a beer, tastes kind of like a beer but is considered a wine, so the taxes on it are higher. It kind of causes some issues for distributors and retailers. Again, I'm sure it gets back to our flavored malt beverage argument just a little bit. Anyway, I'd try to answer any questions, if you have any. [LB899]

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SENATOR COASH: All right. Thank you, Senator Karpisek. Any questions? Senator Crawford. [LB899]

SENATOR CRAWFORD: Thank you, Chair. Thank you, Senator Karpisek. So are there other implications of the change besides the taxes? Are there other times or ways in which one can be sold that the other can't be sold? [LB899]

SENATOR KARPISEK: No, just that the distributor is...like, a beer distributor would be able to distribute them and a retailer would not have to have the wine license. [LB899]

SENATOR CRAWFORD: Okay, so it's a different license for retail... [LB899]

SENATOR KARPISEK: It is. And Hobie can... [LB899]

SENATOR CRAWFORD: ...and a license for the distributor. [LB899]

SENATOR KARPISEK: Hobie, I'm sure, can... [LB899]

SENATOR CRAWFORD: Okay. [LB899]

SENATOR KARPISEK: ...tell us what those differences are, especially the retailer. But a beer distributor can pretty much deliver beer or nonalcoholic...I don't think they can do wine and things; I could be wrong there. [LB899]

SENATOR CRAWFORD: Okay. Thank you. [LB899]

SENATOR COASH: What about the manufacturer? Because typically the manufacturers who manufacture this product probably are already manufacturing beer. Probably not a wine guy making this stuff, it's probably the beer guy, right? [LB899]

SENATOR KARPISEK: Beer guy, probably, yes. I've...Angry Orchard is one that I know of. I got some for legislative research, but I don't remember who made it. (Laughter) [LB899]

SENATOR COASH: All right, we'll let Hobie answer that. Any other questions for Senator Karpisek? [LB899]

SENATOR KRIST: Was that a tax write-off? [LB899]

SENATOR KARPISEK: Hmm. It wasn't, but now it probably will be. It's taxed quite high, too, as a wine. [LB899]

SENATOR COASH: All right. Thank you, Senator Karpisek. We'll take the first testifier in

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support. [LB899]

HOBERT RUPE: Thank you, members of the General Affairs Committee. My name is Hobie Rupe, executive director of the Nebraska Liquor Control Commission. The product we're talking about is not really a new product; it's a really old product. Back in the Revolutionary War and pre-Revolutionary War, Americans, at that time Colonists, drank a lot of cider, because it was a way...they had apple crops there. They could utilize those crops to, you know, maintain it, you know, without rotting or going bad. In fact, you know, the lovely...you know, childhood story of Johnny Appleseed we've all heard about is based on a real man who was selling cider apples in the Northwest Territory. I mean, that's what he was doing, he was trying to engage in business; he had cultivated certain ones. It was a practice that the Colonists had brought over from England, which is where cider is still very, very popular. So it's always sort of been a small, really, small market. Five, ten years ago you started to see more of it. One of the biggest companies is a brand called Woodchuck. It's made out of Vermont; it's pretty sweet. But since then, you've seen more explosion. You've seen more brands being imported from overseas; you've seen more domestic production. Angry Orchard, as Senator Karpisek noticed, is actually produced by Boston Beer Company, the same people who make Sam Adams. And it sort of has come along with the explosion of craft breweries. As more of those people are doing, people are looking for different taste profiles in beer, they're looking for different taste profiles for this. One of the other reasons why--and this is, you know, a lot of supposition--it's exploding in retail sales is, as more and more people are looking for gluten-free diets, it's actually gluten free: beer is not; hard cider is. And it's sort of always been a weird thing how it's dealt with by the feds. The feds classify it as a "still wine." Well, that's because if it has too many bubbles it's champagne, so they can't have that. And they call it a wine. But it's taxed...if you figure out where it's taxed at, it's taxed at exactly the same rate as the small-batch beers, you know, the same...small beer producers, same rate. So they call it a wine, but they tax it as a beer. All right. Under our act, if it's made from fermented fruit juice, it's a wine, which means it's subject to a 95-cent-per-gallon excise tax. If it was a beer, it would be 31 cents. So that's why, if you look at the fiscal note, there is a negative fiscal note on it, because it's just based on rates of consumption. If consumption continues to go up, I think that fiscal note will shrink, because...as it becomes more available. The issue...what happened when these ciders first started coming out--because they are sold in kegs, they are sold in six-packs, primarily--the beer guys, who deliver--and it's also perishable like a beer, unlike a wine or a spirit--had to get the additional license on top of it. So they had to get a wine and spirits license just to sell these products, because they're wanting to...because, especially, a lot of their big beer partners are producing it. As I said, Angry Orchard, I believe, I could be wrong, I believe SABMiller has purchased Crispin Cider. And I think Budweiser might have ACE or something...other ones. You know, so they're actually getting more and more into it, so you're going to see exploding, more utilization. ABV is right around 5 percent, or less, same as the beer. The reason we went a little higher on the...in the draft was sort of to

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mirror what the feds are looking at. There is a CIDER Act pending in front of the Senate right now. Senator Schumer is carrying the bill. People go, why is he interested? Well, you know, New York is the second-largest producer of apples in the country after Washington. And so they're trying to increase...they also want to increase the amount of bubbles so, you know, because some people think apple cider taste a little flat compared to a real light beer, because they can't have too many bubbles, otherwise they're considered a champagne. It's a product, in my mind, which is a true beer alternative. It's marketed that way; it's sold that way. The big beer guys carry...it's on the trucks with the beer. It's the same alcohol level as the beer. And so we think, for ease of, you know, purposes, we should reclassify it and treat it as a beer. And I'd be happy to answer any questions. [LB899]

SENATOR COASH: Thank you, Hobie. Senator Bloomfield. [LB899]

SENATOR BLOOMFIELD: Thank you. Are we entering into the famous slippery slope, where somebody is going to come in a year, five years from now and say, well, I can make that out of concord grapes, too? So we should look at doing that? [LB899]

HOBERT RUPE: Well, the issue of cider versus beer is different. You know, we...there might be...come up there...you know, the difference is wine has always been considered distinct. You know, wine is generally not effervescent; it doesn't have the bubbling unless it is a champagne. And so, you know, and that whole fermentation aspect has to sort of be there to be a cider. I'm not saying it will never come back again. You know, they keep coming up with ideas. They say this is really an old product which is becoming popular again, unlike a new product. And it's just whether we need to, you know, treat it differently than we're currently treating it. I say we're...a lot of states are doing it; we're not the only state dealing with this issue. Some states are treating it as a wine but reducing the tax, based on the ABV. Nebraska is sort of weird; whereas some states, sort of, tax it on how much alcohol the product has, we tax it and classify it on the source of the alcohol. So that's where we're, you know, coming in on this one. [LB899]

SENATOR BLOOMFIELD: I'm a little hesitant to change that fermentation rule. [LB899]

HOBERT RUPE: Well, it's still fermentation. There's no distillation; it's still fermentation. You know, the main difference on a cider is it's a...you know, like you said, you might be splitting hairs, you know: a beer is a fermentation of grains, infusion of grains; cider is apple or some pears; and grapes are wine. So... [LB899]

SENATOR COASH: All right. Senator Crawford. [LB899]

SENATOR CRAWFORD: Thank you. So just to clarify, the tax is one clear distinction. [LB899]

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HOBERT RUPE: Yeah. [LB899]

SENATOR CRAWFORD: And what are the other main implications of making this change... [LB899]

HOBERT RUPE: Well, the other main issue is... [LB899]

SENATOR CRAWFORD: ...in terms of what it looks like on the ground? [LB899]

HOBERT RUPE: ...is a lot of your traditional convenience stores have a "B" liquor license. A "B" is an off-sale beer. A lot of those, because they're as popular, have had to get "D's": the off-sale beer, wine, spirits. Well, you know, if they're getting the "D's" just to carry the cider, then they might as well carry the full-blown...because then they can, you know. [LB899]

SENATOR CRAWFORD: Okay. [LB899]

HOBERT RUPE: And I know some places got the "D's" just because there was a push for the cider. And, you know, some of them didn't even realize that there were any problems, and we had to have a large amount of education with the industry about what could be delivered and what couldn't be delivered. And then, to add even more influence, you've got some things out there acting like ciders which are still considered a beer, like Redd's Apple Ales, and the ales just happen... [LB899]

SENATOR CRAWFORD: Um-hum. [LB899]

HOBERT RUPE: ...to be flavored with apples. So... [LB899]

SENATOR CRAWFORD: Thank you. [LB899]

SENATOR COASH: Hobie, does a distributor have the responsibility of making sure that their retailer has the right license to carry their product? [LB899]

HOBERT RUPE: Yes. [LB899]

SENATOR COASH: So if you've got a retailer who's used to getting beer and says, hey, bring me some of that Angry Orchard, the distributor has got to look and say, well, no, since you don't have the wine, you can't carry that. Is that...? [LB899]

HOBERT RUPE: That is correct. [LB899]

SENATOR COASH: And that's kind of one of the things you're trying to deal with in

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this? [LB899]

HOBERT RUPE: We've got a lot of people who upgraded from "B's" to "D's" because they wanted to be able to carry the product. [LB899]

SENATOR COASH: So when they upgrade from "B" to a "D," do they upgrade, or do they add a license? [LB899]

HOBERT RUPE: They'd have to get...it's an upgrade, because... [LB899]

SENATOR COASH: It's... [LB899]

HOBERT RUPE: ...yeah, a "D" is a beer, wine, spirits off-sale... [LB899]

SENATOR COASH: Okay. [LB899]

HOBERT RUPE: ...whereas a "B" is beer off-sale only. [LB899]

SENATOR COASH: Okay. Do we have a lot of just "B's," a lot of beer only? [LB899]

HOBERT RUPE: We still have some "B's." A lot more of them are getting "D's" because of...they want to carry other products. You know, some of them, you know, want to carry some wines and some other things. You know, just so everybody knows, you know, the five main retail licenses is an "A," is a beer on-sale only; we have very few of those. Generally the only places that still have those are pizza places which have keg beer. "B" is...was the traditional convenience store license: beer off-sale only. The "D" is the traditional liquor store license: beer, wine, spirits off-sale. The "I"--don't know why we couldn't call it an "E," but the Revisor wouldn't let us do it when we reclassified it--is the traditional restaurant license: beer, wine, and spirits on-sale. And then the "C" is sort of the "superlicense," which allows all three on- and off-sale. [LB899]

SENATOR COASH: Talk to me about the...at the manufacturer's level. Because with all the craft beers...breweries coming, across the state, most of them are making beer; I assume some are going to want to start making cider as well. [LB899]

HOBERT RUPE: Some will. It's not as direct as you would think. The machinery is a little bit different; you've got to have some specialized cider machinery. I think some people are getting more into cider because it is popular. But it's not really a one-for-one thing: you can't just, you know, run a batch of beer through your machines and then do the other one. Some of the things, I think the barrels and the vats and stuff, could still be utilized, but the actual processing would be a little more difficult. [LB899]

SENATOR COASH: But if you're a craft beer manufacturer and you've got to pay your

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tax...if this bill were to become law, you'd pay your tax just like if you're making beer.
[LB899]

HOBERT RUPE: Yeah. [LB899]

SENATOR COASH: Right? [LB899]

HOBERT RUPE: Yes. [LB899]

SENATOR COASH: How do they pay to the feds, though? Is it...will we be off kilter with the feds as the law sits now? [LB899]

HOBERT RUPE: No. As I said, the...currently, cider is classified as a still wine and taxed at a special rate, which just happens to be exactly the same rate as the small-batch beers. So if they were to wish to expand this, they would probably have to get...you know, the problem they're going to have here...you know, well, if we reclassify it as a beer, they could get into it. You know, they...a craft beer guy could start making his own here, under the "L" license. If we reclassify it, yes. [LB899]

SENATOR COASH: Okay. All right, thank you, Hobie. Any other questions for Mr. Rupe? Seeing none, thank you very much. [LB899]

HOBERT RUPE: Thank you. [LB899]

SENATOR COASH: Take the next testifier in support. [LB899]

JOE KOHOUT: Mr. Chairman Coash and members of the General Affairs Committee, my name is Joe Kohout, K-o-h-o-u-t, a registered lobbyist appearing today on behalf of our client the Associated Beverage Distributors of Nebraska, the 16 family-owned beer wholesalers throughout Nebraska. And I'm going to kind of take a different route here. We support LB899. But as those folks sort of on the front line of products when they are delivered to those retail establishments...you know, I'm just taking notes here. If I'm from Quality Brands of Omaha and I'm delivering a truckload of, say, 25 cases of Bud Light, 25 cases of Budweiser, and then I've got 5 cases of Woodchuck on my truck, and that's what the retailer has ordered, I then get to present an invoice to the individual retailer for the delivery of that Woodchuck Cider. Now, you're going to say that you have 55 cases, 5 cases of which are cider, why are you presenting us with an invoice? Well, again, under the statutory construct, because it is wine, under that section, we can't deliver that product for free. So it becomes, really, kind of, for us, it becomes a way for us to ensure that we're compliant with the law; it ensures that individuals, businesses are getting those products; and, frankly, it provides clarity. These products are marketed in a very similar manner to beer. And so, with that, I will end my testimony and try to answer any questions you might have. [LB899]

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SENATOR COASH: Thank you. I don't see any questions. Thank you... [LB899]

JOE KOHOUT: Thank you. [LB899]

SENATOR COASH: ...Mr. Kohout. Take the next proponent. Welcome. [LB899]

JUSTIN BRADY: Senator Coash and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as a registered lobbyist for the Nebraska Liquor Wholesalers, which is two of the wholesalers, they are stationed in Omaha but distribute throughout the whole state. They are in favor of this bill because of the need to...it is a product, as Hobie laid out, that has grown and, in its uniqueness, we feel, needs to have its own definition in Nebraska law. As far as some of the benefits, as far as delivery, the liquor wholesalers that I represent do not do any of the delivery, so that's not a benefit one way or the other, but they do see the dilemma that the beer wholesalers that Joe just spoke to you about. And as far as from the tax consequence, it's really minuscule for my...two people I represent. One of the wholesalers doesn't carry this product at all; the other one carries very, very little of it. But they do see a need to try to have it as defined in Nebraska law. So with that, I'd try to answer any questions. [LB899]

SENATOR COASH: All right. Thank you. I don't see any. [LB899]

JUSTIN BRADY: Thank you. [LB899]

SENATOR COASH: Thanks, Mr. Brady. Next testifier. [LB899]

TIM KEIGHER: Good afternoon, Senator Coash, members of the committee. My name is Tim Keigher; it's K-e-i-g-h-e-r. I just wanted to appear before you today in support of LB899 on behalf of the Nebraska Petroleum Marketers and Convenience Store Association. I guess we look at this and say, we'd like to see this mirror the feds. So with that, I will conclude my testimony. [LB899]

SENATOR COASH: Thank you very much. I don't see any questions from the committee. Welcome. [LB899]

KATHY SIEFKEN: Senator Coash and members of the committee, 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. And we support this bill for the reasons previously stated. If you have any questions, I'd be happy to answer. [LB899]

SENATOR COASH: All right. I see none. Thank you, Kathy. [LB899]

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KATHY SIEFKEN: Thank you. [LB899]

SENATOR COASH: Any other testifiers in support of LB899? Seeing none, we'll take any testimony in any opposition to LB899. Welcome. [LB899]

NICOLE CARRITT: Thank you. Good afternoon, Senator Coash and members of the committee. Again, my name is Nicole Carritt, N-i-c-o-l-e C-a-r-r-i-t-t, and I'm the executive director of Project Extra Mile. And, again, we're a statewide network of community partnerships working to prevent underage drinking and youth access to alcohol. And we're here today in opposition of LB899. We recognize recent efforts to grow the hard cider market in the United States; additionally, we recognize that these products have flavors that are appealing to youth, and a change in the classification of the products would aid in the ease of youth obtaining them. We come before you today, as we have many times through the years, because young people are particularly sensitive to price changes. And the literature is clear that as price increases, youth access to alcohol decreases; or a decrease in alcohol prices usually leads to an increase in alcohol consumption. In our efforts to address underage drinking and youth access to alcohol, we know that addressing the issue of price becomes a useful, effective tool in the effort, but also in the effort to prevent excessive drinking by adults. Nebraska, again, ranks Number 4 in the country for its adult binge-drinking rates; and four Nebraska communities rank in the top 15 binge-drinking cities in the country, based on 2010 survey responses. Furthermore, a connection between youth consumption and adult consumption is widely recognized. In 2006, the total cost of excessive alcohol consumption in Nebraska reached over \$1.1 billion, equating to a cost of about \$1.57 per drink. According to the same study, the alcohol-attributable governmental cost to Nebraska was \$476 million, or \$269 per capita. Additionally, in 2010, underage drinking cost the citizens of Nebraska \$426 million. A change in the classification of hard cider to beer not only affects the tax rate, it also make access to these products easier by expanding locations where they could be sold. Reducing underage drinking, excessive alcohol consumption, and the related harms in the state requires action, based on the available literature, to reduce youth access to alcohol. As cider is fermented from fruit, it's more akin to wine than beer and leaves no reason for reclassification. With a fiscal note that estimates a loss in tax revenue to the state of over \$111,000 annually, one wonders the impetus for such a change now. We would urge you senators not to support this proposed change in Nebraska statute. We ask you to share our concern for doing the best that we can in the state to regulate products that pose greater risk to our youth but are also impacting our state's overall public health, safety, and economy in a negative way. Thank you for consideration of our comments, and I'd be happy to try to answer any questions you might have. [LB899]

SENATOR COASH: All right. Thank you, Ms. Carritt. Any questions? I don't see any. Thank you very much. [LB899]

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NICOLE CARRITT: Thank you. [LB899]

SENATOR COASH: And I will also read into the record a letter of opposition from Lanette Richards, the project coordinator of Monument Prevention Coalition. (See Exhibit 5) And we'll take the next testifier in opposition to LB899. Seeing none, is there anyone here who wishes to testify in a neutral capacity? Seeing none, Senator Karpisek to close. [LB899]

SENATOR KARPISEK: Thank you. Very quickly. Again, as these ciders are roughly the same alcohol content as beer, like Hobie said, more like 5 percent--where wine will be 15, 18, maybe--I think it just is more like a beer. Ms. Carritt is right; it is made out of fruit, more like a wine. Senator Bloomfield had a good question: if you could do it out of grapes, then add that in. You know, we're not doing that now, but I suppose someone could get that idea later on. It comes in a bottle that...it looks identical to a beer bottle; it's sold in six-packs, in kegs. Most wine isn't sold that way; I guess you can get the little...the little 8-ounce bottles that...I just think it acts a lot more like a beer. I was a little surprised on the fiscal note, that that much of it is being sold. But, again, to the youth problem, they shouldn't be getting it. I don't know that the price makes that much difference. I know that Project Extra Mile contends it does; I'm not going to argue with them. But I think we're more worried about getting adults to be able to not spend as much money to enjoy a drink. And I'd be happy to try to answer any questions. [LB899]

SENATOR COASH: All right. Any final questions for the Chairman? Seeing none, that will close the hearings for today. [LB899]