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Transcriber's Office

General Affairs Committee
February 10, 2014

[LB914 LB948 LB1020 LB1052 LR416CA CONFIRMATION]

The Committee on General Affairs met at 1:30 p.m. on Monday, February 10, 2014, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1020, LB914, LB948, LB1052, LR416CA, and gubernatorial appointments. Senators present: Russ Karpisek, Chairperson; Colby Coash, Vice Chairperson; Dave Bloomfield; Sue Crawford; Jerry Johnson; and Ken Schilz. Senators absent: Bob Krist; and Scott Lautenbaugh.

SENATOR KARPISEK: Okay, we'll get started. Welcome to the General Affairs Committee. My name is Russ Karpisek, and I'm from Wilber and I am Chair of the committee. Committee members from to my far right are: Senator Crawford of Bellevue; Senator Bloomfield of Hoskins. Senator Lautenbaugh of Omaha will be here. I think he's presenting a bill in another committee. And then we have our Vice Chair, Senator Coash, of Lincoln. To my immediate right is Josh Eickmeier. He's legal counsel for the committee. To my far left is Christina Case, and she is committee clerk for the committee. Next to her is Senator Johnson of Wahoo; Senator Schilz of Ogallala will be joining us later; and then Senator Krist of Omaha will also be joining us. He was in an Exec Board meeting with me, and so he's probably just not eating his sandwich in front of you like I am. Our page today is Colton Wolinski of Lincoln. He's getting me a pop. 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 either one of the entrances. Please fill out the sign-in sheet before you testify. When it is your turn to testify give your sign-in sheet to either the page or to the committee clerk. Thank you, Colton. 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. When you come up to testify, please speak clearly into the microphone, tell us your name, and please spell your first and last name. Also, please tell us whom you are with, who you are representing if you are representing 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. We don't have any cheering or booing today if you are in favor or against a bill. And while we do allow handouts, we do not allow visual handouts or visual...sorry...visual aids unless you clear them through the Chair first. We will begin today's hearings with the appointment of Candy Henning to the Nebraska Arts Council. Welcome to the committee. And if you could, tell us a little bit about yourself and your interest in the arts council. [CONFIRMATION]

CANDY HENNING: Okay. Okay if I just stand here or do you want me to...?
[CONFIRMATION]

SENATOR KARPISEK: If you sit, it'd be better so the microphone can pick you up.
[CONFIRMATION]

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CANDY HENNING: (Exhibit 1) Okay, that's just...I'm happy to do that. Yes. My name is Candy Henning, C-a-n-d-y H-e-n-n-i-n-g, and I am from Lincoln. And first I'd like to say I was honored to be asked to serve on the Nebraska Arts Council. It's an honor. It's an area of interest that I have. Background: fourth-generation Nebraskan, grew up in the southwest corner of the state, south and west of Ogallala, and I get my...attended the University of Nebraska here in Lincoln. My degree was in textiles and design, although I've spent most of my life in the radio advertising business, so it didn't...but I...it didn't...it...I guess that didn't...the...my work didn't quell my interest in the arts. I've...I am the immediate past president of the Sheldon Art Association, so I've...I spent two terms on the Sheldon Art Association, which was the Nebraska Art Association before we changed its name, currently on the MONA Board, which is the Museum of Nebraska Art in Kearney, and I was also on part of the LPPAD, which is the mayor's arts committee here in Lincoln, MONA, former board member of the Lincoln Symphony Orchestra, and also I was part of the group that started...that designed and then implemented the Arts are Basic program at the Lied Center, and I'm also currently on the Lied Center Advisory Board. [CONFIRMATION]

SENATOR KARPISEK: You're busy. [CONFIRMATION]

CANDY HENNING: So I'm busy, yeah. [CONFIRMATION]

SENATOR KARPISEK: Very good. Do we have any questions for Ms. Henning? Senator Johnson. [CONFIRMATION]

SENATOR JOHNSON: Thank you. Appreciate you coming in, Cindy (sic), and your service on a lot of boards so you know the board procedure. My question would be, what do you see as the biggest challenge in promoting the arts in Nebraska? [CONFIRMATION]

CANDY HENNING: The biggest challenge generally for arts organizations is funding, you know, it just is. [CONFIRMATION]

SENATOR JOHNSON: Um-hum. [CONFIRMATION]

CANDY HENNING: It comes down to the funding. That determines what we can do, how many people we can reach and, you know, how many lives we can affect. [CONFIRMATION]

SENATOR JOHNSON: Do you feel your sources are adequate, just not enough, or do you need other sources? [CONFIRMATION]

CANDY HENNING: Well, you know, I've only attended one meeting and I've just been

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appointed to the Nebraska Arts Council Board. [CONFIRMATION]

SENATOR JOHNSON: Okay. [CONFIRMATION]

CANDY HENNING: So I'm probably not that qualified to answer that question. But I know that the arts council does very much appreciate the support and...that they have gotten from the Legislature and from the state and you do give them support, financial support, and also just your emotional support and your support in... [CONFIRMATION]

SENATOR JOHNSON: Okay. [CONFIRMATION]

CANDY HENNING: ...in advocating for them. So...and we're doing...I think Nebraska is doing much better than some of the states surrounding us, especially Kansas, which took basically...discontinued funding their arts...their state art organization so... [CONFIRMATION]

SENATOR JOHNSON: It appears you're open-minded and don't have a real axe to grind with anything. [CONFIRMATION]

CANDY HENNING: No, no. I...no. [CONFIRMATION]

SENATOR JOHNSON: Very good. Thanks. [CONFIRMATION]

CANDY HENNING: I'm too old for that. I did that 20 years ago. [CONFIRMATION]

SENATOR KARPISEK: How did that work out? [CONFIRMATION]

CANDY HENNING: It didn't work out well so I stopped. [CONFIRMATION]

SENATOR JOHNSON: Thank you. [CONFIRMATION]

CANDY HENNING: You're...thank you. [CONFIRMATION]

SENATOR KARPISEK: Any other questions? Seeing none, thank you for volunteering. [CONFIRMATION]

CANDY HENNING: Thank you very much. [CONFIRMATION]

SENATOR KARPISEK: Is there anyone here in support of her nomination? Anyone in opposition? Anyone neutral? Seeing none, that will end the hearing for Candy Henning. Next is Mark Laughlin who is a reappointment. Welcome. [CONFIRMATION]

MARK LAUGHLIN: (Exhibit 2) Thank you, Senator. My name is Mark Laughlin. I'm an

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attorney in Omaha with Fraser Stryker law firm. I've been on the arts council for three years, learned a lot, really enjoyed it. There's a lot of neat artistic things, from theatre to painting to poetry, going on all over the state so I've really enjoyed it. One thing I'll throw out is the...I've been on, you know, some number of committees and Suzanne Wise and the administrative staff are about as good as it gets. We are...we, you, us, are all very, very well served by them, so I just wanted to throw that out to you. [CONFIRMATION]

SENATOR KARPISEK: Okay. Do we have any questions? Senator Johnson, did you want to ask him the same question? [CONFIRMATION]

SENATOR JOHNSON: Well, no, I'll...somebody else can. [CONFIRMATION]

SENATOR KARPISEK: Senator Crawford. [CONFIRMATION]

SENATOR JOHNSON: She will. [CONFIRMATION]

SENATOR CRAWFORD: Thank you, Chair, and thank you for your service and being willing to serve again. [CONFIRMATION]

MARK LAUGHLIN: Sure. [CONFIRMATION]

SENATOR CRAWFORD: Since you are being reappointed, maybe if you want to share with us...you thought...something that you felt was maybe one of the most important accomplishments of the arts council in the time that you've been on there. And I appreciate the kind words for the staff. That's good to hear that your experience with them has been very positive. [CONFIRMATION]

MARK LAUGHLIN: Sure. [CONFIRMATION]

SENATOR CRAWFORD: Is there any other accomplishments you'd like to share with us that's happened on that front in this first year? [CONFIRMATION]

MARK LAUGHLIN: Sure. One of the things, there's been a lot of outreach in terms of going statewide to try to help arts organizations. A lot of them are smaller. You know, there's some big ones, like MONA and some of the ones that were mentioned. But, you know, frankly, a high percentage of the arts organizations that we serve are, you know, more mom and pop. And so they've gone out, for example, and tried to talk about boards, talk about raising money, talk about...you know, just kind of a little help in terms of that. The other thing that's really neat that goes on in Nebraska that may be unique--if it's not unique it's very rare--is that there's a public-private partnership where there's a fund that you all have partially funded and it's matched and then the interest on that kind of gets...it's a complex formula that I don't fully understand. That also has been implemented and there was a \$1 million grant raised, as well as others. So that's been

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spectacular because that has and has the ability in the future to substantially increase the amount of dollars that we've got available to the Nebraska...who we're funding in Nebraska, basically. [CONFIRMATION]

SENATOR CRAWFORD: Um-hum. [CONFIRMATION]

MARK LAUGHLIN: So I consider that to be a real good benefit of what's happened and, frankly, accruing in the future. [CONFIRMATION]

SENATOR CRAWFORD: Um-hum. Is there any major challenge that you see? [CONFIRMATION]

MARK LAUGHLIN: Can you be any more specific? [CONFIRMATION]

SENATOR CRAWFORD: I just meant as you look ahead. So it sounds like that's really helping to address the funding challenge. [CONFIRMATION]

MARK LAUGHLIN: Sure, sure. Well, I think Suzanne Wise, the executive director, has been around for awhile and I think in the next five to ten years both she and some of her senior staff, you know, may look to retire. I have no knowledge of that so I think that's a challenge. But other than that, you know, I think the...hopefully, you feel...you know, the arts council has had a very good working relationship with the Governor and the Legislature. We've got the Governor's Arts Awards coming up here and so honestly what I hear from Suzanne is that we've actually got a real good thing going here in terms of, you know, everyone working together, a major party of which is you all. [CONFIRMATION]

SENATOR CRAWFORD: Thank you. [CONFIRMATION]

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

MARK LAUGHLIN: Thank you. [CONFIRMATION]

SENATOR KARPISEK: Is there anyone here in favor of Mr. Laughlin's reappointment? Any opposition? Anyone neutral? Seeing none, that will end the hearing for Mark Laughlin. [CONFIRMATION]

MARK LAUGHLIN: Thank you. [CONFIRMATION]

SENATOR KARPISEK: Thank you. Now we have Melissa Marvin who is a new appointment. Welcome. [CONFIRMATION]

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MELISSA MARVIN: (Exhibit 3) Good afternoon. Melissa Marvin, M-e-l-i-s-s-a M-a-r-v-i-n, and it is a real pleasure and privilege to be here. I have been fortunate to have served the community and state of Nebraska in a philanthropic way for the last 30 years. The last 15 years have really been dedicated to the performing and visual arts. I've had the privilege of serving on the board of governors at Joslyn, running the Joslyn Art Museum Association, Nebraska Shakespeare, was the actual chairman of the board of the Shakespeare Foundation, Nebraska Humanities Foundation, and currently serve on the Nebraska Cultural Endowment, so I...and I also just want to thank the Unicameral and thank all of you because you've been such great support in that venue. And so through that experience I've had a chance to meet Suzanne, since we support the Nebraska Arts Council, and so when I was asked to be a part of this it was a real privilege. I professionally have been in the banking industry for almost 28 years and then also serve...help Randy Schmailzl at the Metropolitan Community College with donor development and community engagement, so a real...my family has been long-term support in the state in many, many arenas, and so it's just a long legacy that I hope to continue. [CONFIRMATION]

SENATOR KARPISEK: Very good. Any questions? Well, I think you're very well-suited to be on the board and I just thank you for volunteering... [CONFIRMATION]

MELISSA MARVIN: Thank you. [CONFIRMATION]

SENATOR KARPISEK: ...because we do see a lot of good that's done. I think we'd always like to be able to do more. But I think, like we heard earlier, at least we are funding it some. [CONFIRMATION]

MELISSA MARVIN: Very. Thank you. Thank you for your support and thank you. [CONFIRMATION]

SENATOR KARPISEK: Good. Thank you. [CONFIRMATION]

MELISSA MARVIN: Okay. [CONFIRMATION]

SENATOR KARPISEK: Do we have anyone in favor of Ms. Marvin being on the board? Opposition? How about neutral? Seeing none, thank you. [CONFIRMATION]

MELISSA MARVIN: Thank you. [CONFIRMATION]

SENATOR KARPISEK: That will end the hearing. [CONFIRMATION]

MELISSA MARVIN: Thank you. [CONFIRMATION]

SENATOR KARPISEK: We'll now move to the State Electrical Board appointment,

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George Morrissey. Good afternoon. [CONFIRMATION]

GEORGE MORRISSEY: (Exhibit 4) Good afternoon. George Morrissey, G-e-o-r-g-e M-o-r-r-i-s-s-e-y. [CONFIRMATION]

SENATOR KARPISEK: Tell us a little bit about... [CONFIRMATION]

GEORGE MORRISSEY: Well, I'm celebrating an anniversary here with you. This is...my tenth year would begin if I'm successful, my tenth year of being a member of the State Electrical Board. I've been a part of a number of capacities, including president at times, of the board. I'm an electrical engineer, so I fill that role for the State Electrical Board, and have enjoyed my tenure with the board. I would say that, to address a couple of questions that might be coming, as far as, I think, challenges we've faced, that technology has been a big part of the advancement of the board going from a paper-based society to more smart phones and laptops and more electronic. I think that's something that we've done a real good job of at...with the division. I also think that challenges us as we move forward to try to find efficiencies as we move to those...you know, these technology...using more technology in the way we work day to day. We have to strive for greater efficiencies and change the way that the inspectors do their work, so all of these things present plenty of things for the board to provide leadership for. [CONFIRMATION]

SENATOR KARPISEK: Thank you. Any questions? He beat us to it. Senator Johnson. [CONFIRMATION]

SENATOR JOHNSON: Thank you. Change is good or constant and one of the questions that was asked maybe which doesn't have to do with change but it's adapting an old building, a historic building, and moving it into a usable facility and sometimes that cost is so prohibitive with wiring, the electrical side of it. Does everything have to be to a new code or if...can it be declared safe as is in any instances or what's the...? [CONFIRMATION]

GEORGE MORRISSEY: Senator, are you referring to the State Capitol Building with this question? [CONFIRMATION]

SENATOR JOHNSON: No, I'm not. (Laughter) [CONFIRMATION]

GEORGE MORRISSEY: Okay. All right. I was just curious about that. [CONFIRMATION]

SENATOR JOHNSON: Well, we could go to that subject but we want to go to dinner tonight. [CONFIRMATION]

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GEORGE MORRISSEY: Yeah. I think everything, you know, there's...I don't think there's a cookbook that just prescribes exactly that situation. I think ultimately, you know, safety is the main concern, and so there's obviously opportunities for grandfathering of things that don't meet the prescription of a code that maybe can be deemed safe, and that's where...what human judgment and inspectors are...that's their job. [CONFIRMATION]

SENATOR JOHNSON: Yeah. Well, the reason the question was asked, it deals more with the State Fire Marshal... [CONFIRMATION]

GEORGE MORRISSEY: Um-hum, yes. [CONFIRMATION]

SENATOR JOHNSON: ...and going by new code. [CONFIRMATION]

GEORGE MORRISSEY: Right. [CONFIRMATION]

SENATOR JOHNSON: And is there a bridge in between, I guess, maybe, is the... [CONFIRMATION]

GEORGE MORRISSEY: Yeah. That's, you know, that's always been a little bit of a challenge for us because the Fire Marshal, you know, may be a different set of...a different review that overlaps to some extent with us. I know Randy Anderson, our executive director, has been heavily involved in this and I think has some good ideas about better ways to kind of bridge that, maybe not necessarily a gap; but that there's a, you know, a need for better communication across those, the two departments, I think, and I think Randy has got some good ideas on that. [CONFIRMATION]

SENATOR JOHNSON: Thank you. [CONFIRMATION]

GEORGE MORRISSEY: Yeah, yep. [CONFIRMATION]

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

GEORGE MORRISSEY: You bet. [CONFIRMATION]

SENATOR KARPISEK: Do we have anyone in support of Mr. Morrissey? Anyone in opposition? Anyone neutral? Seeing none, that will end the hearing for George Morrissey. Stanley Elsasser, after this many years, sir, I should get your name right but (laughter)... [CONFIRMATION]

STANLEY ELSASSER: You did a great job. [CONFIRMATION]

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SENATOR KARPISEK: Well, good. [CONFIRMATION]

STANLEY ELSASSER: (Inaudible.) [CONFIRMATION]

SENATOR KARPISEK: (Laughter) So am I and I will be later. [CONFIRMATION]

STANLEY ELSASSER: (Exhibit 5) And they're trying to say my name. I'm Stanley Elsasser, S-t-a-n-l-e-y E-l-s-a-s-s-e-r. I'm the licensed electrician. I've been licensed for 35...in the industry for 35 years and I come from a family of electricians. I serve as the licensed electrician on the board. [CONFIRMATION]

SENATOR KARPISEK: Any questions? What do you see as the biggest...the hardest thing for the Electrical Board to... [CONFIRMATION]

STANLEY ELSASSER: Just making sure things are done correctly, you know, in the field. Per the safety aspect, I'm echoing George, it's not just for the people doing the work, it's for the end user to make sure there's not going to be a mishap because of faulty installation. [CONFIRMATION]

SENATOR KARPISEK: So when we approve the new codes, is that a big challenge or have you already been working? [CONFIRMATION]

STANLEY ELSASSER: Well, in the trade it's every three years so, you know, you learn new things. And as George said, there's, you know, with technology and every...things change quicker than the three years, you know. [CONFIRMATION]

SENATOR KARPISEK: Right, and is that...but is that hard to get to the electricians then or...? [CONFIRMATION]

STANLEY ELSASSER: No. They have to have continuing education to get their license every two-year cycle, and usually that's one of the classes that's always given in...from where I'm from is that...significant changes to the code, and it's just the repetition of the...and the inspectors' enforcement. [CONFIRMATION]

SENATOR KARPISEK: I think the continuing ed is one thing we struggle with as legislators because many of us have to do maybe banking or insurance or those sort of CEs and they're really nothing more than... [CONFIRMATION]

STANLEY ELSASSER: You go to 12 classroom hours. You have to have six code so you can get your license. I feel like they're great because if you want to be the best electrician you can be, then a little bit more education is not harmful at all and it's not really an inconvenience. Six hours in a year's...in two years' time is... [CONFIRMATION]

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SENATOR KARPISEK: But you actually do something and learn something.
[CONFIRMATION]

STANLEY ELSASSER: Right. [CONFIRMATION]

SENATOR KARPISEK: I think that's... [CONFIRMATION]

STANLEY ELSASSER: You're going to class and you're...and, you know,...
[CONFIRMATION]

SENATOR KARPISEK: I think that's something that is lost maybe on some of us
because we sit at our desk and do some CEs on-line and I don't know that you learn a
lot so. [CONFIRMATION]

STANLEY ELSASSER: Right. These are informative, the ones I've gone to, so.
[CONFIRMATION]

SENATOR KARPISEK: Good, good. Any other questions? Senator Johnson.
[CONFIRMATION]

SENATOR JOHNSON: I'll do a quick one as a follow-up. My question to George and
I'll...you can...you'll probably say no. But is there anything codewise that would fit in
today's code that is a building that was built 80 years ago? [CONFIRMATION]

STANLEY ELSASSER: That's pretty much up to the inspector, you know, to see what's
safe. [CONFIRMATION]

SENATOR JOHNSON: Okay. [CONFIRMATION]

STANLEY ELSASSER: And that's paramount, you know, that's what...right in the
beginning of the codes, for the safety of persons and property, and that's the only...that
code book is not for a learning tool; it's for safety of persons and property.
[CONFIRMATION]

SENATOR JOHNSON: So you said it's up to the inspector, so there's a judgment there.
Maybe it's...for this place it might fit but somebody else out in another place, just
because of constant exposure to weather or something that would... [CONFIRMATION]

STANLEY ELSASSER: Right, or just wear and tear and, you know, and outdated.
[CONFIRMATION]

SENATOR JOHNSON: Okay. Thank you. [CONFIRMATION]

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STANLEY ELSASSER: Um-hum. [CONFIRMATION]

SENATOR KARPISEK: Thank you, Senator Johnson. Thank you. Is there any proponent testimony for Mr. Elsasser? Opponents? Neutral? Seeing none, thank you for coming. [CONFIRMATION]

STANLEY ELSASSER: Thank you very much. [CONFIRMATION]

SENATOR KARPISEK: Now we move to the Nebraska Commission on Problem Gambling. Edward Hoffman. Welcome. [CONFIRMATION]

EDWARD HOFFMAN: (Exhibits 6 and 7) Good afternoon, Mr. Chairman, members of the committee. My name is Edward Hoffman, E-d-w-a-r-d H-o-f-f-m-a-n. I have been appointed by the Governor as the attorney appointment--I'm an attorney with the law firm of Cada Cada Hoffman and Jewson here in Lincoln--to the Nebraska State Commission on Problem Gambling, and I've been with the committee since 2010. The committee was the entity that oversaw, with the Department of Health and Human Services, the funding that came in to treat and educate individuals with regard to problem gambling from the lottery. And after that LB6 was passed in the last legislative session I was asked to continue on with the state commission that was created by LB6. And I chaired the committee prior to LB6 and have chaired the commission since that time. My background is I graduated from the University of Nebraska College of Law. I did my undergrad at Pepperdine University in California. I am an adjunct associate professor at Doane College where I teach legal-related courses: criminal law; wills, trusts, and estates; legal ethics; family law; real estate transactions; legal research and writing. I'm on the condemnation board for Lancaster County. I'm on the house of delegates for the Nebraska State Bar Association for District 3. I chair the city of Lincoln Telecommunications and Cable Advisory Board, and then I also volunteer and coach for my kids' football and soccer and scouts and have done that, as well. That's my background and I'd be happy to answer some questions with regard to the commission. [CONFIRMATION]

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

SENATOR BLOOMFIELD: Thank you. The problems that we now face, how badly will they be compounded or will they be compounded if we open the state up to full casino-style gambling? [CONFIRMATION]

EDWARD HOFFMAN: It's a difficult question. You know, when I started on the committee, it's one of the issues that sort of came up. And I guess I want to be very cognizant that there are individual senators that are in favor of legalized gambling and there are senators that are against it. And because of my position, I probably have to

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take a position, if I could, to say, and I don't mean to sound "lawyery," but I could say the reality is I don't want to offend either side. But I would say that the reality is, is that right now we're sort of at a crossroads in the commission. I understand this may sound like a response, another "lawyery" response, but the reality is we're sort of at a crossroads. The funding allocation for the commission that we started with is well below what we would need to continue with the process. When we started as a commission, there were no contracts with any providers; there was no 800 emergency number; there was no Web site; there was no certification process for the problem gamblers, which we now have done those things in the short amount of time since the end of the last session. And the reality is that there is some legislation with regard to appropriation for additional funding. The unique aspect though of the additional funding request is that it's not requesting any funds out of General Funds because those funds have already been constitutionally mandated to come from the lottery. And so we already have those, that funds available. And so I really do appreciate the opportunity to speak to you today because, again, those funds are not part of the General Funds. We're not asking for additional funds to come out of General Funds. They're already there, and so what's happened is as we began to work and move out into greater Nebraska...and what I did is I submitted--through Christina who was kind enough to take that before the meeting--the report that we submitted to the Legislature and interestingly enough we had to do that with two months of data because the data wasn't available to us through DHHS. And so we created that report. Next year you'll get a report from us for the entire year. Part of what we're asking is, well, is to be able to utilize those dollars that are already there to fund a data system which the legislation in LB6 required that we do to submit a report to the Legislature and to the Governor's Office. And so right now what we did is we created a spreadsheet so that we could utilize the data for providers and they could submit billing statements, but what we'd like to do is to have software that we would create in order to do those functions that we're statutorily mandated to do.
[CONFIRMATION]

SENATOR BLOOMFIELD: I didn't mean to put you in the position of telling us what "is" is. Thank you for your response. [CONFIRMATION]

SENATOR CRAWFORD: That's helpful. [CONFIRMATION]

EDWARD HOFFMAN: No. I think, and to be honest with you, if the...there was a map, I believe, in the report that indicates where there are hot spots where they...when...before LB6, when there would be calls, where they would be. And I think if you look at those, they are surrounding the state and the locations that are near casino gambling.
[CONFIRMATION]

SENATOR BLOOMFIELD: Okay. Thank you. [CONFIRMATION]

SENATOR KARPISEK: Senator Crawford. [CONFIRMATION]

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SENATOR CRAWFORD: Thank you, Chair, and thank you for stepping up to serve. Does that keep track of particular types of gambling that are problematic? So if a call comes in, does it keep track of whether it was casino or keno or something else? Is that part of the recordkeeping? [CONFIRMATION]

EDWARD HOFFMAN: We do have data with regard to the type of gambling, although I don't believe it's included in your report. I just was looking at that information and I believe that with regard to the funding request, we are set for hearing this week. And I believe that's part of the data that would be shared and it breaks it down. I could tell you that the largest type of gambling--and this is with regard to individuals that are calling in and seeking service--that the largest type that is...type of gambling that's engaged in is slot machines, but that is shifting again because of the Internet. And just, you know, my kids, I have older kids in their 20s and they probably use the Internet all the time to do any...they do, and I think that's a reality that we have to look at and we're working towards that, as well. [CONFIRMATION]

SENATOR CRAWFORD: Thank you. [CONFIRMATION]

SENATOR KARPISEK: Thank you, Senator Crawford. Seeing any more questions? No. Thank you very much for volunteering. [CONFIRMATION]

EDWARD HOFFMAN: Thank you, Senator. [CONFIRMATION]

SENATOR KARPISEK: Do we have anyone in support of Mr. Hoffman? Opposition? Neutral? Seeing none, that will end...oh, I'm sorry. I went too fast. Are you talking about Mr. Hoffman? [CONFIRMATION]

DAVID NICHOLSON: This is casino gambling. [CONFIRMATION]

SENATOR KARPISEK: No. Sorry. [CONFIRMATION]

DAVID NICHOLSON: Oh. [CONFIRMATION]

SENATOR KARPISEK: We're just on the... [CONFIRMATION]

DAVID NICHOLSON: Oh, I'm sorry. [CONFIRMATION]

SENATOR KARPISEK: That's all right. We're just on the appointment of Mr. Hoffman. [CONFIRMATION]

DAVID NICHOLSON: All right. Do you want to keep these or do you want me to hang onto them? [CONFIRMATION]

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CHRISTINA CASE: You can hold onto them for now. Thank you. [CONFIRMATION]

DAVID NICHOLSON: All right. [CONFIRMATION]

SENATOR KARPISEK: Okay. Senator Schumacher. LB1020. And I neglected to say that we are going to use the light system today. We're going to go five minutes at a time. So while you are up the green light means you have four minutes, the yellow light is one minute, and when it turns red we'd ask you to wrap it up--except for Pat will get one minute. (Laughter) Just teasing. Okay. Senator Schumacher. [LB1020]

SENATOR SCHUMACHER: Thank you, Senator Karpisek and members of the General Affairs Committee. I'm Paul Schumacher, S-c-h-u-m-a-c-h-e-r, representing District 22 in the Legislature. And apparently you're going to take up some gambling bills later today. Senator Karpisek, I'd like to remind you that potato chips are the crack cocaine of fast food. [LB1020]

SENATOR KARPISEK: I thought they were the crack cocaine of potato chips. [LB1020]

SENATOR SCHUMACHER: (Laugh) Well, might be. [LB1020]

SENATOR KARPISEK: Okay. I'm sure (inaudible)... [LB1020]

SENATOR SCHUMACHER: (Laugh) Okay. I'm here today to introduce LB1020. I've introduced this bill or forms of it a number of times in the past in order to keep before the committee a very real problem that even though the Liquor Commission has made attempts to adjust and attempts to compensate for it, remains a problem in our state, and that is particularly acute in the more rural parts of the state but also a problem in some of the larger ones. Our rural communities are basically composed of, at least half of them, we have over half our communities under 300 in population, essentially three or four institutions. There's a local church, local bar, local city maintenance building, and a local co-op, and that pretty well summarizes a lot of our rural communities. They all struggle and they struggle to keep their doors open; many of them close and it's very difficult. What happens in a sting operation is the law enforcement folks come in, usually it may be on the busy Saturday night or Friday night, with someone who looks of age and who attempts to buy alcohol. And it is really hard in these communities to keep employees who are...will show up for work, will do a good job. Sometimes the bar owners are sick, they've got to fly with whatever they have as a bartender or barmaid. And people trip up and it is easy to trip up because the folks that are sent in--who are underage who look like they're adults--are skilled in tripping them up. And so it is terribly unfair, particularly where we have a simpler set of justice and ethics in rural areas that you don't deliberately try to trip up people, and they get tripped up and they either have to face a suspension or they have to face a big fine. And even though those fines do not

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seem big in the context of bigger operations, they're absolute killers in those operations which basically are hand to mouth and try to make money during the week in order to pay for the beer and the potato chips that are delivered over the weekend. This is a pretty simple bill. What it says, basically, is the first time is a warning and that warning does not count against your enhanced penalties for subsequent offenses. It's a little bit of an opportunity to build a little grace and a little leeway into the system for these bars who are out there who are struggling and who in a majority of our communities are one of the two or three remaining social centers or superstructures of the community, and it's just asking for a little mercy. [LB1020]

SENATOR KARPISEK: Thank you, Senator Schumacher. Any questions? Senator Bloomfield. [LB1020]

SENATOR BLOOMFIELD: Thank you, Chair. Senator Schumacher, you mentioned the small communities and that's my world. But is there anything in here that would not allow the same thing for the big cities? [LB1020]

SENATOR SCHUMACHER: There isn't, Senator. [LB1020]

SENATOR BLOOMFIELD: Okay. [LB1020]

SENATOR SCHUMACHER: But as a practical matter, the problems that I described are far more acute in the small communities than they are in the big communities where you have a population to feed off of and employees to find. [LB1020]

SENATOR BLOOMFIELD: Yeah. I have gone to our local watering hole to have a hamburger at 7:30-8:00 at night just so we don't have to cook when we get home. And I try to order a beer to go with it and I can't have it because there's nobody there to serve me. [LB1020]

SENATOR SCHUMACHER: It's tough. [LB1020]

SENATOR BLOOMFIELD: You know. [LB1020]

SENATOR SCHUMACHER: It's really, really, really tough. [LB1020]

SENATOR BLOOMFIELD: Not me, but the...you know, it's tough if you come in and there's nobody there of age even to serve the alcohol and... [LB1020]

SENATOR SCHUMACHER: Well, you know our...those places are just plain struggling. [LB1020]

SENATOR BLOOMFIELD: Yeah. [LB1020]

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SENATOR SCHUMACHER: And they may not make it, but we don't have to kick them while they're down. [LB1020]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Senator Crawford. [LB1020]

SENATOR CRAWFORD: Thank you, Chair, and thank you, Senator Schumacher. What is...do you know what the cash penalty...it says here that they could pay a cash penalty instead of...in lieu of suspending sales. Do you know what that is or what kind of a burden that cash penalty is? [LB1020]

SENATOR SCHUMACHER: I think some of them can get up in the thousands of dollars, but I think there's testimony behind me that probably... [LB1020]

SENATOR CRAWFORD: Oh, that will tell you, okay. Thank you. [LB1020]

SENATOR SCHUMACHER: ...more expert on exactly what the gradation of the offenses are. [LB1020]

SENATOR CRAWFORD: Okay. Thank you. [LB1020]

SENATOR KARPISEK: Thank you, Senator Crawford. Anything else? Seeing none, thank you, Senator Schumacher. [LB1020]

SENATOR SCHUMACHER: Thank you, Senator Karpisek. [LB1020]

SENATOR KARPISEK: First proponent of LB1020. [LB1020]

JIM MOYLAN: Guess who. [LB1020]

SENATOR KARPISEK: Mr. Moylan. [LB1020]

JIM MOYLAN: (Exhibits 8-10) Mr. Chairman, members of the committee, I'm Jim Moylan, M-o...J-i-m M-o-y-l-a-n, representing the Nebraska Licensed Beverage Association. I'll get back to this in a little bit. I want to thank Senator Schumacher for introducing this bill. You know, all the governmental agencies and law enforcement have provisions for giving warnings. The Liquor Commission is the only body I know of that does not ever give a warning. It's always just so many days' closure and you pay the fine. Now coincidentally, I got a call from a little convenience shop/gas station out in western Nebraska this morning, a town of about 600. Got stung Saturday night, and the girl who got...served her had training before--well, they had one within the last three years. Now the penalty on that by the guidelines of the commission, and they never vary from them, is two days of closure, but they usually waive that, and 30 days of closure.

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And since she's had one penalty within the last four years, that's \$3,000. She says, we can't do it, it's just me and my husband here and then we do have some part-time employees. So that's just coincidental but that's the reason we need something like this, maybe a warning or two. Now the number of retailers in your districts: Senator Karpisek, you have 122; Senator Bloomfield, you have 97; Senator Coash has 98; Senator Crawford has 56; Senator Johnson, you have 137; Senator Krist has 59; Senator Lautenbaugh has 125; and Senator Schilz has 154. Now multiply that by ten, that's about how many employees you have in each one of the establishments when you go from the grocery stores, convenience stores, bars, bars/restaurants, and restaurants. That would be a rough estimate and that's from Department of Labor statistics. So you've got people in that district, you know, that really, really want to have it. Now another couple of things. I've got a couple of amendments here. Here's the first one. The first one is, it's LB60, which we had before this committee in 2011, and that's the one that required minors to tell the truth in a sting operation if they're asked. Now here's the second part of that. These are the guidelines that we complained about three years ago. The bill came out of committee, went onto the floor, and then everybody just started heaping on it, bad deal. Now is it more important to go out and entrap and sting a bar for sale to a minor that's coming in there with the Patrol, or is it more important to tell...have the kids tell the truth? That was the interest item that we had three years ago and that just didn't prevail. Now we've got to try it again. Now they did develop some new...Senator Krist worked with Hobie back here. They did work...they never did work anything out. But here it is: The underage cooperating individual may say "yes" or "21" if asked, "Are you 21," or, "Are you old enough?" And then if they ask they may answer the question, "Are you working for law enforcement," they can answer it with a no. That's the current rules and they've never varied from them. They haven't done a thing since they said they would three years ago. Now we're going to have a lot of people up here in opposition to it. Number one, I think I've told you before, this is...only about 7 percent or less of the minors get their liquor from retail establishments. Project Extra Mile in '07 and '08 got \$500,000 and they're the ones that sponsor these. Now I suggest that you ask them how much they spend on this compared to how much they spend where they should be educating minors and parents about the travails of using alcoholic liquor. They'll be behind me. You might even ask the commission something about that. I'm sure Hobie will be up here and he's probably going to...he should not be up here on this one because, as you know, they should not be involved in policy matters and this is a policy matter for the Legislature to decide. They should just administer, you know. Now here's the other amendment that I have. [LB1020]

SENATOR KARPISEK: Wrap it up, please, Jim. [LB1020]

JIM MOYLAN: Yeah. Okay. No person, law enforcement officer, or minor participating in checks shall be paid or promised payment for their services for participating in compliance checks. So they can't pay anybody. That's going to be that amendment. So the bill and you've got two amendments to go with, and if you want some more

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information, come and see me, okay,... [LB1020]

SENATOR KARPISEK: We will. [LB1020]

JIM MOYLAN: ...and advance all of them, one, two, or three of those, to the floor.
[LB1020]

SENATOR KARPISEK: Okay. Do we have any questions for Mr. Moylan? Seeing none, thank you. Do we have further proponents to LB1020? Hmm. Any opponents? Well, looks like he was right. [LB1020]

HOBIE RUPE: (Exhibits 11 and 12) Well, you know, a blind squirrel finds a nut occasionally. [LB1020]

SENATOR KARPISEK: (Laugh) Welcome, Mr. Rupe. [LB1020]

HOBIE RUPE: Thank you very much. My name is Hobert B. Rupe, executive director of the Nebraska Liquor Control Commission. I appreciate this opportunity to address the commission on this issue...the committee on this issue. I'm going to hand a couple...here's a couple handouts. I believe--just make sure--you might have them, the current copy of the guidelines and the current copies of the penalty guidelines, as well, just so you've got them. First off, I want to express what an actual...I mean, you're hearing the words "sting," "entrapment." Okay, these are called compliance checks and they're called compliance checks for a basic reason. If you're doing your minimal job, they're easy to pass. The purpose behind the compliance check is to send somebody in who looks age appropriate. And if you'll notice, contrary to what Senator Schumacher stated, the guidelines of the NSP clearly state that they must be dressed age appropriately; they can't have facial hair; they can't dress to look older; they can't wear makeup to make themselves look older. They're looking as they should and in which case most of these people between the ages of 15 and 20 who are doing these compliance checks. There are three areas where they may, to use Mr. Moylan's words, lie. The first was for their own safety when they fill...if they're asked to fill out the minor compliance book, you know, the black book, instead of putting their home address they can put down the address of the Patrol office or the sheriff's office or the PD office they're working with. The other two instances came about because of questions which were being asked because a lot of these licensees were pretty smart or they had pretty smart lawyers and they had figured out that they can't lie at all. The first question you can always ask is, are you working with law enforcement? Well, before they changed the guideline and they had to say yes, you just passed the compliance check. Well, not really passed a compliance check, you just short-circuited a compliance check because the purpose of a compliance check is to get the ID, which are their own IDs and now vertically formatted, in the hands of the clerk to look at, to read it, to understand what a valid ID is and to see this one is not old enough to...this person is not old enough to sell

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them alcohol. Well, after that change was made, later on, then they started asking, are you 21, are you old enough, as the same way, not as a way to successfully pass that check but to short-circuit it. Well, I can tell you right now that if that is a licensee's sole way of determining whether somebody is old enough is to ask them whether they are or not, they might pass a compliance check; but once the local high school knows that that's the only question they're going to be asked, they'll be twittering to their friends before they even walk out, hey, we've got an easy touch over here. You know, I mean, the purpose of a...of it is very simply...simple: see somebody who very much looks their age, ask for identification, get the ID, and refuse the sale. Nebraska IDs are all vertically formatted if you're under 21. That means they're completely, you know, turned differently than the ones you've got in there. In January we had a case in front of the commission where the licensee asked for the ID, they get handed a 15-year-old's learner's permit, and they still sold them a six-pack of Bud Light. The people are just asking for the ID; they're not reading it; they're not trained whatever they're doing. All they know is that the boss who is watching the camera behind says they've got to ask for that ID. They get the ID in their hand and they hand it right back and make the sale. They sold to a 15-year-old who handed them a learner's permit. All right. A couple other things which were brought up in the earlier testimony. The money that Project Extra Mile supposedly had, they coordinated those. Actually, that money came from the Office of Highway Safety. It came as part of a federal grant which gave money to the Office of Highway Safety to conduct that. As part of that federal grant money you had to be linked with a youth prevention advocacy group who would coordinate it, and that's why Project Extra Mile was serving as the coordinator for those. The commission strongly believes that, going further back to the main bill of a warning, that's not appropriate. What the commission will do...you've got the penalty guidelines. For the first offense you're looking at usually a 10- to 20-day suspension. If it's your first offense ever it's a \$50 per day so...and generally you'll get ten days. If you didn't ask for the ID, they'll add two days, so you're usually looking at a 12-day suspension, which would be...if they...at \$50 a day would be, what, \$650. Also what we do then generally, because we're trying to use progressive discipline to bring the licensee into compliance, we'll also specifically order that all employees serving alcohol there have to take one of the certified server classes and show proof to the commission within 60 days of the order. So, you know, we think that just by doing the warnings the first time you're going to be short-circuiting the impetus to bring a licensee back into compliance. And also, contrary to what was said, we do waive it at times. I'm sorry. I believe I'm on my red, unless you wish me to continue, Chairman. [LB1020]

SENATOR KARPISEK: Can you continue quickly, wrap it up, please? [LB1020]

HOBIE RUPE: I can...could do it quickly. We do actually waive those. We actually had a licensee in front of us last month who had their fourth failed compliance check within a three-year period. Instead of canceling their liquor license we specifically gave them a pretty hefty suspension fine but are working...have the NSP officers working with them

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to try to make sure that their staff is receiving the proper training and so as not to continue to sell. So the license...you know, the purpose of the penalty is to attempt to bring the licensee back into compliance, not to drive somebody out of business. Thank you. [LB1020]

SENATOR KARPISEK: Thank you, Mr. Rupe. Questions? I know we've been over this many times since I've been here and sometimes you and I disagree on how they do these checks. I guess I see a little bit of the point of if somebody is checked more times than not. But I do agree that it's got to be something enough to get their attention. [LB1020]

HOBIE RUPE: Generally what will happen is if you're...if you failed a compliance check, say, and then six months later they're doing it again, usually, they'll randomly draw those out of the numbers but they'll go back and recheck people who currently failed to see if they made the changes and successfully passed it and most times they do. I mean, let's be honest, the vast majority of licensees that come in front of us on failed compliance checks are first-time offenders so. [LB1020]

SENATOR KARPISEK: Senator Johnson. [LB1020]

SENATOR JOHNSON: Yeah. I don't remember the...all of the numbers that each one of us had. It seemed like Senator Krist was a lot lower. But so it's...we all probably have the same, about the same number of stores, bars, whatever. Is there any difference between urban and rural as far as what you're seeing in compliance or issues? [LB1020]

HOBIE RUPE: Actually, I would say that the issue I see is less the urban versus rural and more the type of establishments. [LB1020]

SENATOR JOHNSON: Type. [LB1020]

HOBIE RUPE: I see that we see...I think we see less violations at restaurants and bars than we do at convenience stores. I think the convenience stores are probably the most frequent fliers on failed compliance checks. You know, I think, you know, there's a whole host of reasons why. You know, they have high turnover rates in that industry, so the training may not be there. You know, whereas you're at a restaurant or if you're a bartender or a server in a restaurant, you probably have more invested in your job at that time and so you're moving forward. But, you know, rural versus...we don't see a lot. I'll tell you where we do see the differences. We do see the differences in places where there is no checks. The example I make on this was about seven years ago they did compliance checks in Blair for the first time ever and they had a 46 percent failure rate. They went back six months later. They were down to an 18 percent failure rate. They went back the following year and they were down to about 7 or 8, they were down to 7

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percent. And so we're...in places where you don't have compliance checks you have initial...you have original...higher instances of failure so. [LB1020]

SENATOR KARPISEK: Senator Crawford. [LB1020]

SENATOR CRAWFORD: Thank you, Chair, and thank you, Director. Is there similar training when people first get their license as the training that you provide if they've failed a check? [LB1020]

HOBIE RUPE: There is no statewide mandatory training. Actually, LB444, I think, which we'll be hearing about, is dealing with that. Certain municipalities have mandated training--Lincoln, Grand Island, Kearney, I think Scottsbluff has it now, a couple other ones. [LB1020]

SENATOR CRAWFORD: Thank you. [LB1020]

SENATOR KARPISEK: Any other questions? Seeing none, thank you. Do we have any further opposition to LB1020? Good afternoon. [LB1020]

NICOLE CARRITT: (Exhibits 13 and 14) Good afternoon. Senator Karpisek, members of the committee, 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. We're a statewide network of community partnerships across the state working to prevent underage drinking and youth access to alcohol. We're here today in opposition of LB1020. The research is clear. The vigorous use of compliance checks can reduce the illegal sale of alcohol to minors. Compliance checks are designed to encourage compliance by businesses, to encourage licensees to be diligent in complying with the law and to, therefore, reduce the availability of alcohol to minors. Ensuring that appropriate and increasingly severe consequences are applied to violators is essential because it is those consequences that motivate licensees who might otherwise remain lax or noncompliant to change their behavior. These operations are done in a well-planned, well-coordinated manner, with criteria and guidelines firmly in place. Those guidelines came from legislation passed several years ago requiring the State Patrol to promulgate the rules and regulations so that they are done with consistency across the state and in every jurisdiction. There is no ability to deviate from them. I've provided for you data for sales to minors during compliance checks in the Omaha metro area over the years. We've seen significant progress in the compliance rate of retail establishments selling alcohol to minors since the collaborative enforcement efforts began in the 1990s. From the highest noncompliant rate of 41 percent in Douglas and Sarpy Counties in 1997 to the most recent noncompliant rate of just 11 percent, you can see that in Nebraska we've experienced exactly what is seen in the national research and that is when you do consistent enforcement you have the ability to reduce the availability of alcohol to kids. However, we continue to see businesses that repeatedly violate the law and put many young people in harm's way.

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Ensuring the penalties for this illegal action remain firmly in place and enhanceable is important for deterring businesses across the state from making illegal sales to minors and provides a means for getting retailers back into compliance. Senators, progressive discipline works and sends a clear message to those with the privilege of being licensed in the state to sell alcohol, that the sale to minors is unacceptable and will not be tolerated. I've also provided you a copy of the CDC's evidence-based recommended strategies for preventing excessive alcohol consumption, which includes the consumption by persons under age 21. And you can see that one of the recommendations is the enhanced enforcement of laws prohibiting the sale of alcohol to minors. Again, it's a research-based strategy. So thank you for your consideration of our comments and positions. We'd urge you not to move this bill forward. And with that I'd be happy to answer any questions. [LB1020]

SENATOR KARPISEK: Thank you, Ms. Carritt. Senator Johnson. [LB1020]

SENATOR JOHNSON: How come you looked at me first? You knew I'd have a question. [LB1020]

SENATOR KARPISEK: I got that feeling. (Laughter) [LB1020]

SENATOR JOHNSON: When I was sitting in the mayor's chair and sat in on several Extra Mile meetings...is the calling tree still there? [LB1020]

NICOLE CARRITT: It sure is. [LB1020]

SENATOR JOHNSON: Is that part of why we're seeing...I mean, are they...they're aware that somebody might be around so they do watch. Do you think that puts any more awareness to them and nervousness or do they wait and make sure the calling tree is working and...? [LB1020]

NICOLE CARRITT: I think the calling tree is prevalent. And while retailers may say that it's not, it certainly is. But what we know from the research that when you do consistent, multiagency compliance checks, you are creating that deterrent effect, so you keep retailers on their toes, basically, never knowing and making sure that you're encouraging them to check and verify ID every single sale. [LB1020]

SENATOR JOHNSON: Okay. Thank you. [LB1020]

NICOLE CARRITT: Um-hum. [LB1020]

SENATOR KARPISEK: Somebody has still got to be first on the calling tree, right? [LB1020]

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SENATOR JOHNSON: That's true. (Laughter) [LB1020]

NICOLE CARRITT: That's true. [LB1020]

SENATOR KARPISEK: Yeah. Any other questions? Can you tell us a little bit about your education programs? [LB1020]

NICOLE CARRITT: Sure. What we know from the science is that education is a component of the work that we do, but we rely on the research. And what we know is that just as those evidence-based recommendations that are in front of you, enforcements and policy change makes a huge difference in changing the landscape and creating an environment where, frankly, this type of behavior is intolerable. [LB1020]

SENATOR KARPISEK: But do you have education programs? [LB1020]

NICOLE CARRITT: We're constantly doing education. We work with youth in the communities. We're working with law enforcement. We're working with lawmakers and policymakers both at the local and state level to encourage them about these evidence-based strategies so communities can take ahold, as well as Project Extra Mile. [LB1020]

SENATOR KARPISEK: So that's a big part of what you do. [LB1020]

NICOLE CARRITT: That is a large component of what we do, yes, Senator Karpisek. [LB1020]

SENATOR KARPISEK: I knew I'd get in trouble if I didn't ask. (Laugh) Any other questions for Ms. Carritt? Seeing none, thank you. [LB1020]

NICOLE CARRITT: Thank you. [LB1020]

SENATOR KARPISEK: Any further opponents to LB1020? Anyone neutral? [LB1020]

DAVID NICHOLSON: Ironically, this goes right down my alley. I am a retired investigator with the Nebraska Liquor Control Commission. [LB1020]

SENATOR KARPISEK: Can you have a seat and tell us your name and everything, please, for the record? [LB1020]

DAVID NICHOLSON: Yep. I've been sitting all day. [LB1020]

SENATOR KARPISEK: You're going to be sitting some more. (Laughter) [LB1020]

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DAVID NICHOLSON: Okay. David Nicholson, N-i-c-h-o-l-s-o-n. I am a retired investigator with the Nebraska Liquor Control Commission. And in 1986 we were transferred to the Nebraska State Patrol enforcement division and ironically myself and chief enforcement officer Carolyn Hatfield initiated the MIP sting program back in 1986. The ground rules we set with that sting operation was, number one, we never used anybody that looked older than they actually were; number two, they could not use a false ID, we wired them for sound; and if they were asked if they were old enough to buy beer, they were not to lie. They simply turn around and walk out. We wanted the licensees to be honest so we wanted to be honest. And we responded only to complaints that we had from other law enforcement agencies, such as police departments, sheriff's office, State Patrol, Game Commission, that they had information that XYZ bar was selling to minors. That's who we would target. We just didn't randomly pick XYZ liquor, ABC liquor. We did not do that. We had enough investigations to do on compliance without attacking good licensees and I would hope yet that this day it's still being done that way. But that's the way we set the ground rules when Carolyn Hatfield and I set that up. And we set this up statewide and, in conjunction with that, each year us investigators would go out and put on seminars around the state for licensees on how to watch for IDs, watch for the physical attributes of somebody trying to buy liquor who wasn't old enough, their...you know, the way they act and the way they conduct themselves, their speech, and trained these licensees in that area and which it was a good deterrent, an excellent deterrent. And at that point in time we wanted to be on a basis with our licensees that we trusted them and they trusted us because so many times a lot of stuff is dropped in a bar that may be advantageous to you about another crime that happened somewhere else. I made a lot of bookmaking arrests in the state of Nebraska when I was an enforcement officer mainly because of the information I got from the bars. XYZ bar called, say, hey, Investigator Nichols, I've got some guy coming in here every Friday night taking money and passing out bookie sheets. Well, we'd work that complaint, we'd pop our bookie, thanks to the retailer for helping us with that. So we had some camaraderie. Our bad retailers knew who they were and we knew who they were. So we didn't have that kind of a problem, but all in all, you know, the minors are going to get their beer. Shortly after that we initiated our procuring program where we actually sat on liquor establishments watching for someone that goes in and buys, goes around the back alley and passes it through the window to some kids. So we targeted that for two years up to the time I retired in 1993 and we were very, very effective, very effective, especially in the college community. We worked the college communities and we popped a lot of college kids for MIP but on the same token we popped his procurer. And do you think that minor was going to tell that...us officers who his buyer was? No. He's going to protect his buyer. You know, "I found it in the ditch," or, "They never asked me for any ID," or, "I approached a guy going in." Well, we know better not because we were surveilling the business, so don't try and lie to us. So that's what we ran into as far as enforcement with the Liquor Commission. They...at that time, you know, we worked hard with the industry and it's really gone berserk right now. I mean, everybody in the

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world, you've got a theater that wants to serve liquor now. As far as I'm concerned, that's ludicrous. I won't take my kids into that theater. You know, there's enough business establishments with liquor. We don't need them in a theater. The convenience stores we've found over the period of time convenience stores were the less apt...they were more apt to sell than anybody else mainly because there was only one or two people on duty, they didn't have the training that they needed to watch for phony IDs or the physical attributes of these kids that were trying to buy. The mom-and-pop stores, they were very, very conscious of it. The rural areas, the nice thing about the rural areas, everybody knew everybody, so that was a great attribute as far as we was concerned that they knew what they was going on. But we did sting operations in the bigger cities and it was just amazing what we did. But we targeted those problem areas. We just didn't pick somebody at random. [LB1020]

SENATOR KARPISEK: Thank you, Mr. Nicholson. [LB1020]

DAVID NICHOLSON: You bet. [LB1020]

SENATOR KARPISEK: I find it a little bit funny that you call them stings because when we do that we get in trouble. [LB1020]

DAVID NICHOLSON: Yeah. [LB1020]

SENATOR KARPISEK: They're "compliance checks." [LB1020]

DAVID NICHOLSON: We can get by with that. (Laughter) [LB1020]

SENATOR KARPISEK: Any questions? Senator Bloomfield. [LB1020]

SENATOR BLOOMFIELD: Thank you, Chair, and I wanted to elaborate a little bit on that. You did call them "stings" repeatedly and we really do get looked at funny if we use that term. Do you see that the process has changed that much from what you openly called...you set up as stings to what we now call compliance checks? [LB1020]

DAVID NICHOLSON: Well, you know, Senator, it was such a good, working op that we would hope that it was continued. And I don't know to this day...I stay in communication with a lot of the guys yet because I'm actively involved with the casino thing that I'm going to visit with you people about and I would hope that that continues. I get disturbed if somebody tells me that law enforcement is lying to a licensee or they're letting these kids lie about, you know, their age or something like that. And it...you know, we told the kids, if they ask for an ID, show it to them and don't admit that you're too young, let them find that out, that's their responsibility. [LB1020]

SENATOR BLOOMFIELD: Okay. Thank you. [LB1020]

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SENATOR KARPISEK: Any other questions? Seeing none, thank you, Mr. Nicholson. [LB1020]

DAVID NICHOLSON: You bet. [LB1020]

SENATOR KARPISEK: (See also Exhibit 27.) If you could fill out a testifier sheet for this bill, please, so we can make a record of that. Any further neutral testimony? Seeing none, Senator Schumacher waived closing so that will end the hearing on LB1020 and I will turn the Chair over to Senator Coash for the next bill. [LB1020]

SENATOR COASH: Looks like the next four. [LB914]

SENATOR KARPISEK: Yeah. (Laugh) [LB914]

SENATOR COASH: Okay. We are going to open the hearing on LB914. [LB914]

SENATOR KARPISEK: Thank you, Senator Coash, members of the committee, the few that we have present. LB914 would allow a retail licensee with a Class C liquor license to be eligible for a limited bottling endorsement. LB914 clarifies that a craft brewery license may also get the limited bottling endorsement, although current law already allows them to bottle their product under their manufacturer's license. The limited bottling endorsement would allow the license holder to repackage beer into containers commonly referred to as "growlers." The growlers may not exceed 68 ounces, which is approximately 2 liters, but must feature a logo of the licensee's trade name. The licensee must provide a sanitized container and either seal it or place the container in a bag that is then sealed. The container or bag must have the purchase receipt attached. Customers from the licensed premises may then remove these containers for off-site consumption. So what this is, if you go to your local craft brewery and you want to take some of their beer home, you can buy it in a growler, which again is about two liters, and they'll seal it and then it's kind of like the wine doggy bag that we have, it has to be sealed and show that it stays sealed so if you were to be pulled over and it was opened it would be the open container law, go home and/or wherever you're going, get yourself there, and then you'd have the 68, roughly, ounces of beer from your favorite craft brewer. And that is the intent of this bill. [LB914]

SENATOR COASH: All right. Thank you, Senator Karpisek. Senator Bloomfield has a question. [LB914]

SENATOR BLOOMFIELD: Thank you. If I go into my local watering hole that is not a craft brewer, can he have some of these growlers made up and fill them up with tap Budweiser and seal them up and let me take it out of there? [LB914]

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SENATOR KARPISEK: Our intent is not to do that. It's for the craft brewery licensee. [LB914]

SENATOR BLOOMFIELD: Only. [LB914]

SENATOR KARPISEK: That is the intent. However, those people...I mean, how do you stop that? [LB914]

SENATOR BLOOMFIELD: Um-hum. [LB914]

SENATOR KARPISEK: But someone at let's just say Lazlo's, of course, they probably don't have other things on tap, but the idea is for a craft brew, craft beer. [LB914]

SENATOR BLOOMFIELD: But it's not your intent that Joe's bar down the street would be able to put Budweiser in it? [LB914]

SENATOR KARPISEK: Well, that is not the intent. [LB914]

SENATOR BLOOMFIELD: Tap beer, to some people, is better than the canned beer. [LB914]

SENATOR KARPISEK: However, I don't know that we can... [LB914]

SENATOR COASH: Senator Bloomfield, we're going to let legal counsel weigh in. (Laughter) [LB914]

SENATOR BLOOMFIELD: Okay. Thank you. [LB914]

SENATOR KARPISEK: (Laugh) Yeah, since senator is messing it up. [LB914]

JOSH EICKMEIER: If I could just interject really quickly, under current law someone like Lazlo's, because they are a manufacturer who also has a retail license, they can essentially package it however they want. So they...you can go to Lazlo's, for example, and they can fill the growler and you can purchase it and you can take it with you. Other retailers, like bars, cannot currently do that because they're not a manufacturer. This would allow those retailers to also do that with a C license. So they could, for example...I don't know that someone would do that with a...with Bud Light, but if you had a craft beer that came in, in a keg, they would then be able to fill a growler and package it and then be able to sell it for consumption off the premises. So the answer to your question, yes, that person would be able to do that with this endorsement to their existing license. [LB914]

SENATOR COASH: All right. [LB914]

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JOSH EICKMEIER: Does that help? [LB914]

SENATOR BLOOMFIELD: Okay. Thank you. [LB914]

SENATOR COASH: Thank you, legal counsel. Senator Johnson has a question. [LB914]

SENATOR JOHNSON: I remember a discussion where a gentleman, somebody bought him a real fancy growler and he wanted to bring it in and get it filled and take it out. In this case, what would the licensee have to do to that one? [LB914]

SENATOR KARPISEK: With this, they would have to sanitize it if he absolutely had to have his. Our idea is to have them already...it would be an exchange program kind of like a keg. [LB914]

SENATOR JOHNSON: So if I own two of those growlers, I could leave one there for the next time. [LB914]

SENATOR KARPISEK: That would probably be the... [LB914]

SENATOR JOHNSON: Okay, well,... [LB914]

SENATOR KARPISEK: Boy, counsel is just telling me I'm wrong on this whole thing. [LB914]

SENATOR COASH: All right, well, I...you know what, I think we're going to have somebody from the commission come up and probably be...probably going to be a good person to answer some of these questions. We'll leave it to the experts. Any other questions for Senator Karpisek? [LB914]

SENATOR JOHNSON: No, I've been shut off (inaudible). [LB914]

SENATOR KARPISEK: No, no, no. No, there's no other ones. [LB914]

SENATOR COASH: We're going to shut him off (laughter) and move to the... [LB914]

SENATOR KARPISEK: From the growler. [LB914]

SENATOR COASH: Thank you, Senator Karpisek. We're going to start with the proponents of LB914. Welcome. [LB914]

MARK KANTARAS: Hello. My name is Mark Kantaras, M-a-r-k K-a-n-t-a-r-a-s, kind of a

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long name. Thank you for having me today. I appreciate this opportunity. And kind of on the lines of what he is talking about with, you know, with this big craft beer craze that's going on right now, we're just looking for the ability to package these craft brews in a growler, which is two liters, from the retail side--not from a brewery but just from retail. And kind of on the lines of what he was asking, Senator, you know, we could do Bud Light but I just don't think you'll see a lot of people purchasing that. It'll be at a higher cost. And a lot of these craft brews that are out there, most of them just come in keg form and not bottle form, so it will give people the ability to try these craft beers that do not come in bottles. [LB914]

SENATOR COASH: All right. Thank you. Is there any questions for Mark? Seeing none, thanks for testifying. [LB914]

MARK KANTARAS: Thank you. [LB914]

SENATOR COASH: We'll take the next testifier in support of LB914. This is support for LB914. All right. [LB914]

HOBIE RUPE: Hello. My name is Hobert Rupe, executive director of the Nebraska Liquor Control Commission. And you are interested in why are we supporting this bill. As you're aware, there was a bill introduced last year by Senator Lautenbaugh who had a similar bill but it was very broad, you know, as I said, you could drive a truck through it, a beer truck through it. And then there was an interim study which Senator Johnson... [LB914]

SENATOR COASH: You'd better put your name on the record. [LB914]

HOBIE RUPE: I'm sorry. Hobert Rupe, executive director of the Nebraska Liquor Control Commission. I apologize. And then Senator Johnson recognized that we did have a guy come in here with his own growler from...he wanted it and with that...by having the interim study and also giving us time to look at it and the fact the commission hosted a National Conference of State Liquor Administrators hearing up in September up in Omaha and this was one of the issues that was on there was dealing with growlers, because we're not the only people dealing with this issue because what you're doing is you're seeing a lot more people wanting to be able to take this...these type of things home and...but at the same time is there's health, safety, and welfare concerns and how do you sort of balance those out and that's the reason why we're supporting. This bill as drafted, you know, we support because we worked with legal counsel, we worked with the industry, we worked with interested parties to try to get what they want to be able to do and yet not open up the floodgates and have people...you know, the old fear from, you know, preprohibition side of the kid going down with the oaken bucket with beer for papa going home. I think it was Jimmy Cagney in a movie did that one if my recollection is correct. What this bill is going to do is it's going to allow the...it's going

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to clarify that the Class L, the brewpub licenses, can already do this. They can do this under the original package law. They can sort of designate what is the original package. Some of them will designate it as a growler because that's the only way they package it other than out of a keg. We were...the commission was looking at going forward on sanitation rules and regulations anyway because most of them do sort of the growler exchange. Not everybody was doing that and so we want to make sure that people were getting safety...safe beer to drink. When this bill came forward, you have a lot more bars which are spending more and more of their resources on tap handles. You know, beer is hot. Craft beer is the only area of the beer market which is growing. And people want to be able to take...you know, they go in there, they try a beer, gosh, I really wish I could take this home and have this tomorrow during the football game; oh, I'm sorry, we don't sell...it's not available in any other way other than keg. So what this bill would allow would be a normal retailer that, if they want to have the skin in the game, they've got to pay the extra \$300 licensing fee for the endorsement. So not everybody is going to want to do that because you've got to pay an extra fee. The other part is they've got to sell it in their own growlers which are clearly...designate what establishment they're from. They've got to be properly "logoed," marked, you know, "this come from Hobie's Hooch Hut," and so, you know, so the guy who brought his own fancy one in would not be able to do it and the reason for that is you're trying to make sure of where the beer is coming from, the source of the alcohol, and sort of tracking and making sure that it's coming from it because, you know, a lot of the industry is schizophrenic on this, as well. The really small guys who don't have bottling like it because it's a way to get their beer out to the homes, maybe people will like it. The people who are slightly larger who have established, who have made the money on kegs...on a canning or bottling process, you know, are saying, wait a minute, I spent that money. And then the big guys really don't want...you know, they want to keep quality control. They don't want somebody putting their beer, which they knew they sold in a good thing, into a crappy, contaminated growler that somebody brought in that was full of dust and other things out of the basement. This bill, as drafted, we think addresses a lot of those concerns, and that's why the commission moved from an opposition from Senator Lautenbaugh's bill into support and it's actually, I think, one of the examples where...that a good idea can come, sometimes they need to be hammered out, looking at what's going on not only in Nebraska but also in the rest of the country and seeing where they're looking at and coming up with a compromise that sort of addresses the people's wants but balances everything out. I can tell you ours is, probably, compared to most other states, a very moderate growler bill. A lot of other states are...I mean, New York is...they have growler filling stations at convenience stores. You just walk in and put your thing in...under the tap and it fills it up for you type thing. I don't think we wanted to go with this down that way. This bill as drafted addresses the desire of these bars which are putting a lot of effort into selling a lot of these different types of beers and yet at the same time balances it out with the commission's health, safety, and welfare and regulatory issues. With that I'd be happy to answer any questions. [LB914]

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SENATOR COASH: Thank you, Hobie. Senator Bloomfield has a question. [LB914]

SENATOR BLOOMFIELD: Do you have any idea what it costs to manufacture or to have your own growler if you were...Hobie's Hooch Hut, I believe? [LB914]

HOBIE RUPE: Hobie's Hooch Hut? Yeah, I'm pretty sure that what you'll do is you'll have to be buying large, you know, glass. They're usually glass so there will be an expense there. There will be an engraving cost to have it and you're...and then you're going to have to sort of figure out, either labeling or engraving cost, how many of these you're going to want to sell. And I think that was put in there so we'd know where the beer is coming from. So, you know, there's a track that if something, you know, if it goes bad, where did it go bad at, you know? And so, you know, I'm not sure what the cost is, but most of the industry are the people who want to do this as a, you know, as a big part of it, they didn't blink at it so...and they didn't raise an objection. [LB914]

SENATOR BLOOMFIELD: Okay. Thank you. [LB914]

SENATOR COASH: Thank you, Senator Bloomfield. Any other questions for Hobie? Seeing none, thank you. Take the next testifier in support of LB914. [LB914]

JIM MOYLAN: Mr. Chairman, members of the committee, I'm Jim Moylan again, J-i-m M-o-y-l-a-n. I'm here to support it but I don't think you should limit it. I think you should let anybody who has an off-sale license to be able to do the same thing. I know people who would not want to go into, you know, one of these little pubs that makes special beer. They'd rather go into a regular bar because they like draft beer. Now the only way they can do it is buy a whole keg and take it home or else drink beer there. So I don't think you ought to limit it to just that class of people. I don't even know that would be legal. I haven't checked it out. But I would recommend to open it up, let anybody who has tap beer on do the same thing. Now years ago they did that in Omaha. I remember a bar there when I was going to Creighton University that you just take a gallon jug in, give them \$1, he'd fill it up for you. That's what other students told me about, you know. (Laughter) So, you know, what's the difference of then and now? It's just too much regulation, you know, so. Any questions I'd be happy to try to answer. [LB914]

SENATOR COASH: All right. Thank you, Mr. Moylan. Senator Bloomfield has a question for you. [LB914]

SENATOR BLOOMFIELD: And this would go to Mr. Moylan and also back to legal counsel. If I understood you right, if you have this license you could actually do that. If you wanted to put "Joe's Bar" on a growler, you could sell Budweiser draft beer in it if you wanted to? [LB914]

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JOSH EICKMEIER: A Class C license. [LB914]

SENATOR BLOOMFIELD: Yeah. So it could be done. [LB914]

JOSH EICKMEIER: If you had a Class C license you could get this endorsement. [LB914]

SENATOR BLOOMFIELD: Okay. A Class C license is manufacturer? [LB914]

JOSH EICKMEIER: On- and off-sale. [LB914]

SENATOR BLOOMFIELD: Okay. [LB914]

SENATOR COASH: I think we're there. [LB914]

SENATOR BLOOMFIELD: Yeah. I think we're there too. [LB914]

SENATOR COASH: I think we're as wide as we can get with this. [LB914]

JIM MOYLAN: This would apply then. [LB914]

SENATOR COASH: It does. I think so, Mr. Moylan. [LB914]

JIM MOYLAN: Yeah. [LB914]

SENATOR BLOOMFIELD: With the \$300 permit I think we would be all right. [LB914]

JIM MOYLAN: Yeah. Well, they talk about limiting it but it's not. [LB914]

JOSH EICKMEIER: It would not be for off-sale only. [LB914]

SENATOR COASH: It would not be for just off-sale. [LB914]

JIM MOYLAN: Pardon? [LB914]

SENATOR COASH: This would not apply for just an off-sale license because I don't think you'd find a liquor store putting in a tap handle just so that they could fill growlers for their customers. [LB914]

JIM MOYLAN: Yeah. Okay. [LB914]

SENATOR COASH: All right. Thanks, Mr. Moylan. [LB914]

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JIM MOYLAN: Thank you. [LB914]

SENATOR COASH: All right. We'll take the next testifier in support of LB914. Okay, we'll take testimony in opposition of LB914. [LB914]

NICOLE CARRITT: Good afternoon again. Senator Coash and members of the committee, 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. We're here today to oppose LB914 as it's currently proposed. As we've shared with you before, a recent study by the Centers for Disease Control and Prevention estimated the cost of excessive alcohol consumption in Nebraska in 2006 as it reached over \$1.1 billion, or about \$1.57 per drink. In that same study almost three-quarters of the cost of excessive alcohol consumption in the country were due to binge drinking, defined as consuming four or more alcoholic beverages per occasion for women and five or more for men. Nebraska, again, ranks number four in the country for adult binge-drinking rates and the connection between youth consumption and adult consumption is widely recognized. Furthermore, youth in Nebraska consumed over a quarter of all alcohol sold in this state in 2009. Some of our specific concerns regarding the bills proposed include: the ability for any on/off-sale establishment to fill up containers to go from the tap as has already been talked about; removing the intent of this practice from craft beers to any beer on tap; and the lack of limit on the number of containers that can be purchased by a consumer at any one time. Youth access to alcohol through this practice is a proper concern. So if the proposal were to be considered further we would respectfully request an amendment to the bill that would limit the number of containers that can be purchased by any one individual to no more than two within a specified time period. Thank you for your consideration of our comments and suggestion and I'd be happy to answer any questions. [LB914]

SENATOR COASH: All right. Thank you, Ms. Carritt. Senator Bloomfield. [LB914]

SENATOR BLOOMFIELD: Why would you question or why would you be more concerned about them carrying out a growler than you would a 12-pack or a 24-case pack/case? [LB914]

NICOLE CARRITT: I think that the concern is the same but I think that we certainly want to come and make our position on the record just to be sure that we recognize the potential for a youth to carry out beer in this type of container just as they are, and our concern is them taking it out in a 12-pack or... [LB914]

SENATOR BLOOMFIELD: Okay. Thank you. [LB914]

NICOLE CARRITT: Um-hum. [LB914]

SENATOR COASH: I don't see any more questions. Thank you, Ms. Carritt. [LB914]

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NICOLE CARRITT: Thank you. [LB914]

SENATOR COASH: Take the next testimony in opposition. Seeing none, we'll take testimony in a neutral capacity. Seeing none, Senator Karpisek, would you like to close? [LB914]

SENATOR KARPISEK: Very quickly, thank you. I understand Ms. Carritt's concern about any time people can get more alcohol. A six-pack of beer is 72 ounces. So a six-pack of beer would even be more than what we're talking here. I don't...we don't make a limit on anything. I mean, you can buy 100 cases of beer if you want. I don't know that this would...well, hopefully, no alcohol falls into minors' hands, but I would think that this would be even less of a chance, especially if most people are going to buy craft beer which is more expensive and different tastes. And so I do understand her concern of any binge drinking, but I would not think that we need to put a limit on any beer or alcohol. I'd answer any questions if I can. [LB914]

SENATOR COASH: (See also Exhibit 28.) All right. Thank you, Senator Karpisek. Any final questions? Seeing none, you are up again, LB948. [LB914]

SENATOR KARPISEK: Let's see if I can do a little better on this one. [LB948]

SENATOR COASH: Please. [LB948]

SENATOR KARPISEK: Legal counsel kills me. 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. LB948 increases the catering license fee from \$100 to \$250. Currently, a specially designated license, or an SDL, costs \$40, but a qualifying applicant can only receive six SDLs in a year. Six SDLs in a year would cost \$240. A catering license may do more than six events; therefore, it would make sense that a catering license would cost more than the total of six SDLs, which is why LB948 would increase the license to \$250. The Nebraska Liquor Control Commission has seen an increase in the number of noncaterers getting catering licenses simply because it was cheaper. Three SDLs at \$40 would cost \$120 compared to the \$100 for the catering license. LB948 would increase the catering license cost to be more in line with the individual SDL cost. So we have quite a few people, again, that are not caterers getting a catering license so they can do more events for less money. One way to go about this was we thought about doing away with the catering license because hardly no one that we think of as caterers have a catering license--a few, but it's more people who are going to do more than that six. Or even if they're going to do three and possibly more events, why wouldn't you get the caterer's license and be cheaper? [LB948]

SENATOR COASH: Okay. Thank you, Senator Karpisek. I have a question. So who are

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these noncaterers that you're referencing? [LB948]

SENATOR KARPISEK: It could be any bar or we had...I'm trying to not name names. But over at the Champions Club during football games there is a caterer there. Now that is a little more catering because they do have food there, but that's who also then brings the alcohol. People cater to the Lied Center also on game days or maybe Sheldon Art Gallery. So they're probably not bringing food as much, but they are providing their liquor license. [LB948]

SENATOR COASH: Okay. Is there any difference in the requirements of the two kinds of licenses here with regard to...I mean, there's a difference in the cost of the license, I get that. But is there any other difference in... [LB948]

SENATOR KARPISEK: Right, but other than that... [LB948]

SENATOR COASH: Is there any other difference in the license? [LB948]

SENATOR KARPISEK: Hobie, of course, will be the better one to ask, but I don't think so. [LB948]

SENATOR COASH: Okay. Tee that up for Hobie then. Senator Bloomfield. [LB948]

SENATOR BLOOMFIELD: And this may need to go to Mr. Rupe too. But we are trying to get our little American Legion Club up there to be legal when they sell beer, which unfortunately I started looking back over the years--they haven't necessarily always been. [LB948]

SENATOR KARPISEK: Um-hum. [LB948]

SENATOR BLOOMFIELD: Would this catering license as you see it...the last time we got a license we got the special \$40 license. That's the first time there's ever been a license in there and we could do five or six a year to... [LB948]

SENATOR KARPISEK: Yeah. If you do five or six, then you could do the SDLs for \$40 each if you're going to go over that. But again, if you're going to do five or six at the current rate, why wouldn't you get the catering license and then you could... [LB948]

SENATOR BLOOMFIELD: Because we weren't aware it was there. [LB948]

SENATOR KARPISEK: Well, I understand. But at the current rate you would...it would be cheaper to do the catering license which in my opinion wasn't what the catering license was intended for. [LB948]

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SENATOR BLOOMFIELD: We were told the cheapest license we could get was around \$600. [LB948]

SENATOR KARPISEK: Hmm. Well, you'll have to ask Mr. Rupe that one too. [LB948]

SENATOR BLOOMFIELD: I will. [LB948]

SENATOR KARPISEK: But I don't think so. [LB948]

SENATOR COASH: All right. Thank you, Senator Bloomfield. [LB948]

SENATOR JOHNSON: I'm afraid to ask you a question. I'll wait for Mr. Rupe. [LB948]

SENATOR KARPISEK: Yeah, you'd just as well wait. [LB948]

SENATOR COASH: We're going to let you sit down and... [LB948]

SENATOR KARPISEK: Yeah, I think I did better this time. [LB948]

SENATOR COASH: All right. Thank you. Okay. We'll take the first proponent of LB948, somebody that knows what they're talking about. Come on up. [LB948]

HOBIE RUPE: (Exhibits 15 and 16) Well, it depends upon who you ask. (Laugh) Good afternoon, Senator Coash, members of the General Affairs Committee. My name is Hobert Rupe. I'm the executive director of the Nebraska Liquor Control Commission, appearing in support of the bill. I'm going to hand out a couple things. First is a listing of everybody who's got the K endorsement, and that's what the catering is. That's this one here. And then also I'm handing out sort of so you know just how much the...how many SDLs have increased. You're seeing a chart going back to 2008 and seeing a steady increase in the number of SDLs. SDL is a special designated license. It is used for an event license, usually like for a street dance, for an off-premise event, and what...there's two groups of people who can get SDLs. The first is the licensee, a holder of a retail license, and they are limited to six per year. The other people who can get one are nonprofits, museums, you know, churches, and they're limited to six per year, as well. The only people who can get more than six are people who have catering...the catering endorsement. Now what you have to realize, the catering endorsement, the K, isn't a separate license. There's not just the K license alone. It's sort of like a CDL on top of a normal driver's license. It's, you know, you can drive but then you have this additional right on top of it. And what that does is, okay, you're a caterer, you're going to be doing most...a lot of your things are going to be off premise, therefore, you're going to be able to pay \$100 for that one-time fee and be able then to have more than six because the key thing is you don't pay the \$40 a day issue. Well, as happened is people look what's the best way for the money and, well, heck, if I'm going to do more than two, I might as

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well just get the catering endorsement so you've got, you know, people I think who aren't being caterers. So if you look at the list there...it was funny when you came up there it sort of opened up...you've got some legitimate caterers on there. You've got the Hy-Vees which do the catering; you've got Target has a catering endorsement; Skagway drugstore has a catering endorsement on one. So, you know, we call it a catering license but we're not sure because it...you know, so a lot of people who aren't really in the business of being caterers have acquired those. Now if you're looking here, as you see, you know, from our...from the other handout I handed you, just from 2008 to 2013 you're seeing a steady increase in the number of SDLs per year. That's not a bad thing necessarily because that means more people who are getting it, at least who should be getting the SDLs, are getting it. But I think if...because, you know, they've already paid the one-time \$100, you know, to pay for it, they're pulling SDLs oftentimes when they're not really thinking they need them or where they're doing it. And so they're creating a lot of issues that aren't really there. The \$250 fee we thought was a fair one because it's basically \$10 more than just if you're going to do the normal six. So people are actually going to decide, am I a bar who is going to do two or three of these a year or am I a person who would be a Hy-Vee, who is going to be caterers, going to be two or three of those a week? And so we're trying to at least make the license sort of be fair compared to what the normal \$40 per day is. And plus that helps out, you know, that makes it a little more fair then for the other people who are actually paying the \$40 per day who didn't figure out the, sort of, the cheap loophole. With that I would be happy to answer any questions anyone would have. I think there were a couple of that Senator Karpisek deferred to me. [LB948]

SENATOR COASH: Okay. Thank you, Hobie. Senator Bloomfield. [LB948]

SENATOR BLOOMFIELD: Again, going back to my little American Legion Club, I see several American Legions... [LB948]

HOBIE RUPE: Yes. [LB948]

SENATOR BLOOMFIELD: ...with the K license. [LB948]

HOBIE RUPE: Yep. [LB948]

SENATOR BLOOMFIELD: They already have a regular license and then they get the catering license? [LB948]

HOBIE RUPE: You'll see they have a CK, which means they have...their regular retail license is a C, so it's an on- and off-sale beer, wine, and spirits license, and then they get the catering endorsement on top of that. [LB948]

SENATOR BLOOMFIELD: How much is the C license? [LB948]

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HOBIE RUPE: C license is \$300. [LB948]

SENATOR BLOOMFIELD: So for \$400 basically they could have the... [LB948]

HOBIE RUPE: Yes, but you also have to remember that license fees are also subject to the occupation tax so the local governing body can charge up to twice the amount of the license fee if they so choose. [LB948]

SENATOR BLOOMFIELD: Okay. I don't think that would be an issue. But the SDLs you can get without having any license whatsoever. [LB948]

HOBIE RUPE: No. You have to have...the only two groups who can get an SDL are either a nonprofit... [LB948]

SENATOR BLOOMFIELD: Like American Legion. [LB948]

HOBIE RUPE: American Legion could qualify, churches, museums, political parties I think are covered, or a retail license that you have to either be a retail licensee or fall into that nebulous area of nonlicensees. Now to be honest, in our legislative letter, although nobody was brave enough to bring it up again, we recommended just not allowing nonprofits to get SDLs. We think you...we as a commission believe the licensees should be the people who have...cater these events because they've actually got some skin in the game. If a holder of a licensee...let's say I'm a CK license, I have a street dance, and I sell to a minor or I sell to a visibly intoxicated. There's a permanent license there that the commission can go against and enforce against. On an SDL bought by a nonlicensee, the license is gone. I mean, by the time it gets to us there's no license to enforce against. Now, you know, you'll have some pushback from a lot of the nonprofits on that. But, you know, just for...just to make sure they...you know where I'm sitting at because it was in our legislative letter that we made that recommendation, as well, on SDLs (inaudible). [LB948]

SENATOR BLOOMFIELD: Okay. I'm just clarifying for my own use here. We're fine at six times a year under current law and is that from January 1 to December 31? [LB948]

HOBIE RUPE: Yes, calendar year. [LB948]

SENATOR BLOOMFIELD: Okay, thank you. [LB948]

SENATOR COASH: Thank you, Senator Bloomfield. Senator Johnson. [LB948]

SENATOR JOHNSON: I was to an event in the last month, I guess it was in my district, and I'm assuming they did not have any license because you walked in and you made a

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donation. How do you protect that with...? [LB948]

HOBIE RUPE: Well,... [LB948]

SENATOR JOHNSON: By enforcement somehow? Somebody shows up? [LB948]

HOBIE RUPE: Enforcement because, if you ask me, they were selling alcohol without a liquor license which is a misdemeanor offense. [LB948]

SENATOR JOHNSON: That's...well, yeah. [LB948]

HOBIE RUPE: There are two..."When do you need a license?" is a question we get a lot. The first time you need a license: If you're selling alcohol, you need a liquor license. We think that if you're doing a donation when you walk in to defray it, that's just a fancy way of the old fraternities saying, "We're not selling the beer, we're selling you the glass it goes in," in defense. You know, it didn't work back then; it doesn't work now. And the other time is if you're...you need a license is even if you're not selling it but you're open to the general public in which case anybody can go in and consume, then you need a liquor license. If it's a truly private party where only invited guests come in and they're not...and you're not selling it, no liquor license is required. Given as how you described it, that a goodwill donation was required for entering, they're guilty of a Class III misdemeanor. [LB948]

SENATOR JOHNSON: Well, this was...no, it wasn't required on entry. It was required if you went to the bar area. [LB948]

HOBIE RUPE: Then it's even more clear that it's a violation of selling alcohol. [LB948]

SENATOR JOHNSON: I know it. That's my point. I'm anti-alcohol so you know where I'm coming from. [LB948]

HOBIE RUPE: Yeah, yeah. Yeah, and it happens a lot. I mean, one of the reasons I think we are seeing an increase in the SDLs is because we've been telling people how to properly...you know, both the commission and the Patrol are saying, here's when you need a liquor license, and so people will err on the side of caution often and get an SDL on those call...those close cases. That place there should have had a liquor license of some sort. [LB948]

SENATOR JOHNSON: Of some sort, right, thank you. [LB948]

SENATOR COASH: All right. Thank you, Senator Johnson. Senator Bloomfield. [LB948]

SENATOR BLOOMFIELD: I'm also aware of a few county fairs that have official beer

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gardens set up but they sell you a paper ticket which you can exchange two tickets...
[LB948]

HOBIE RUPE: Those places are licensed. [LB948]

SENATOR BLOOMFIELD: ...two tickets for a beer and one ticket for a can of pop.
[LB948]

HOBIE RUPE: Those places are licensed. The reason they're doing that, and we were seeing events which use the ticket method, is so they don't have cash transfers going, you know, so they can control where the cash is being spent at and they can also control consumption because you go to that one location, you're buying the five drink tickets. That's the only person so the volunteer who is behind the bar isn't...and so it's sort of a cost-control mechanism at those county fairs and also a consumption issue because, you know, then they know who's got a limited amount. [LB948]

SENATOR BLOOMFIELD: And that is where our...the local Legion that I was talking about picked up the idea. They were selling paper tickets at the door and turning them in for beer. There wasn't a hint of a license. We're not doing that anymore. [LB948]

HOBIE RUPE: Well, I'm pretty sure the...yeah, I...okay. I appreciate that. We will see that at county fairs and they will set that up. And often, you know, that would probably technically be a violation of what's called passbooking which we'll hear later on. But the good thing about SDLs is if you ask for it in advance, we can waive any part of the act other than the age of consumption. So in other words, we can't say you can be under 21, but that's how we can allow, like, a beer-tasting event to happen where technically that would be an all-you-can-drink-type thing, which would be a violation of the act. But they'll say, hey, it's for a tasting and this is the purposes, and so we work with those in the SDLs. So the SDL has sort of been utilized as a promotional thing where...to do some things which are technically in violation of other parts of the act but the intent of it isn't to blow it all the way open. [LB948]

SENATOR BLOOMFIELD: Well, I hope you get that silly notion of doing away with SDLs out of your head. [LB948]

HOBIE RUPE: No, no, no. We weren't thinking about getting rid of SDLs; we were thinking about getting away of the catering. [LB948]

SENATOR BLOOMFIELD: The catering license, okay. [LB948]

HOBIE RUPE: And the one theory other than raising the K fee was just get rid of the K and then get rid of the limitation on six, then any licensee could get more than six but they're paying for every single day they're getting. So if they're going to be utilizing them

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more, they're going to be paying for more. That was the other option we sent forward in our recommendation. [LB948]

SENATOR BLOOMFIELD: Thank you. [LB948]

SENATOR COASH: Thank you, Senator Bloomfield. Before any of my colleagues get any more of their retailers in trouble, we'll get you off the (inaudible)... [LB948]

HOBIE RUPE: No names were said here and I believe, according to Mr. Moylan, there were over a hundred. So the likelihood of me hitting the right one with throwing a dart at it is pretty thin. [LB948]

SENATOR COASH: You never know. Thank you, Hobie. [LB948]

HOBIE RUPE: Thank you. [LB948]

SENATOR COASH: All right. We'll take the next testifier in support. All right. We will move to opposition testimony. I will read into the record a letter of opposition from the Grocery Industry Association. (See Exhibit 29.) Okay. Last call for opposition. Is anybody here in a neutral capacity? Seeing none, Senator Karpisek. (See also Exhibit 31.) [LB948]

SENATOR KARPISEK: I'll waive that one, Senator. [LB1052]

SENATOR COASH: Senator Karpisek will waive. That will close the hearing on LB948 and we will open on LB1052. [LB1052]

SENATOR KARPISEK: Thank you, Senator Coash. Again, 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. LB1052 would allow any licensed retailer engaged in the sale of distilled spirits to issue tasting cards to customers. Without this change in the Liquor Control Act a customer would be able to run a tab but would be unable to have a prepaid distilled spirits card. Current law only allows for prepaid wine-tasting cards. Those of you on the committee, have been on the committee, will remember the Brix wine tasting that you go in, you can fill how much you want on your own, and this would be the same idea but for distilled spirits. I'd be glad to try to answer any questions. [LB1052]

SENATOR COASH: Thank you, Senator Karpisek. So, Senator, I'll ask, is there...this will extend it to distilled spirits. So I know we've got a small-but-growing number of distilleries. Is that...is tasting in distilled spirits frequently done this way? Is that your understanding that...? [LB1052]

SENATOR KARPISEK: I don't think that it is done very much this way because I think

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you can't because you'd have to run a tab. But this way you could... [LB1052]

SENATOR COASH: Outside of... [LB1052]

SENATOR KARPISEK: Oh, out... [LB1052]

SENATOR COASH: ...outside of the state. Obviously they're not doing it now because it's illegal. [LB1052]

SENATOR KARPISEK: Oh, you know, I don't know about outside the state. But like you said, there is a growing number of distilleries, small ones, in the state. There is...we're getting more bars--I think there is a tequila bar in Lincoln now--more specific types of alcohol, not just a full-blown bar with everything in it. [LB1052]

SENATOR COASH: Right. Okay. Thank you, Senator Karpisek. Any questions for the Chair? Seeing none, we'll start with testimony in support. Welcome. [LB1052]

DAN MATUSZEK: Mr. Vice Chairman and members of the committee, thanks for having me. I'm Dan Matuszek. I'm the owner of two Brix locations in Omaha. I came before you two years ago requesting an exception to the passbook law that prohibited prepaid cards for dispensing wine out of a machine. My company was the first to bring this technology into the state, which is a new technology that's kind of around the U.S. now, and a fun way and a very responsible way to sample wine with the use of a smart card. At the time we had one location at Village Pointe. Our business model is related to small-size sampling of wine with the use of these cards in 1-ounce, 1.5-ounce, and...excuse me...1-ounce, 2.5-ounce, and 5-ounce quantities. At the time this technology was from...it is...it actually is based out of Europe and we were the first in the state, as I mentioned, to bring it into a retail concept. I want to thank you for granting the exception, allowing us to expand our business ultimately to a second location at Midtown Crossing and hopefully expand our brand both regionally and nationally throughout the country. I did want to mention that my company does have a self-imposed 21-year-old age limit for anyone that works in our business because of these cards, so we do not hire anyone under the age of 21; we do not allow anyone to be in our establishment that's under the age of 21 that is not with a parent or guardian. At the time this exception was granted we did not see the need for this exception for prepaid distilled...prepaid cards to dispense distilled spirits. With the growing craft cocktail and whiskey categories not only in Omaha, Nebraska, throughout the country and, actually, throughout the world, I'm bringing a new concept to Omaha by the name of Grain. It's a very high-end, craft-cocktail, whiskey concept that would allow for dispensing of whiskeys in a very small format. That would be...these machines actually allow for calibration of any size pour. These machines would pour at half-ounce, 1-ounce, and 1.5-ounce, so 1.5-ounce pour of whiskey is about equal to one glass of wine. Just like Brix, no one that works there would be under the age of 21 and we would

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not allow anyone in the door without a parent or guardian that is under the age of 21. This is a very high-end, niche concept, one that caters to the high-end user that enjoys craft spirits. We're talking about pours of a half-ounce of somewhere between \$5 to \$7 on average with some ranging to \$25 to \$50 per half-ounce pour. So with that we're asking for an exception to LB1052 that would allow prepaid cards for spirits. [LB1052]

SENATOR COASH: All right. Thank you very much. I have a question for you, Dan, because I've been to your establishment so I understand Brix, the concept that you're promoting here. Do you have any limits on consumption? I mean, can somebody, you know, put \$100 on their card and blow through \$100 of wine? I mean, is there...what kind of limits do you put on your customers to monitor? [LB1052]

DAN MATUSZEK: They can put whatever amounts they want. But it's like anything else, we police that pretty carefully. But the machines are controlled access, so through computer technology, that we can shut a card off at any given time. So if we feel that someone has too much we can deactivate their card, we can put a hold on their card. But, like, we have, you know, many people on the floor at any given night that police consumption, so, yes, they can put any amount on the card but it's a matter of how much we allow them to dispense off of the card. [LB1052]

SENATOR COASH: Okay. Thank you. Any other questions for Dan? Seeing none, thank you very much, Dan. [LB1052]

DAN MATUSZEK: Thank you. [LB1052]

SENATOR COASH: We'll take the next testifier in support of LB1052. Seeing none, we'll take any testimony in opposition of LB1052. Welcome back, Ms. Carritt. [LB1052]

NICOLE CARRITT: Thank you. Again, I'm Nicole Carritt, N-i-c-o-l-e C-a-r-r-i-t-t, and I'm here today representing Project Extra Mile, a network of community partnerships across the state working to prevent underage drinking and youth access to alcohol. We're here today in opposition of LB1052. Our opposition really rests on the concern that the practice will increase the access of alcohol to minors in these type of environments. Again, alcohol is the most commonly used and abused drug among youth in the U.S., more than tobacco and elicit drugs combined, and is responsible for nearly 5,000 deaths each year. In 2011 approximately one in four Nebraska high school students, an estimated 35,000 students, reported drinking alcohol during the past 30 days according to the results of the Youth Risk Behavior Survey. We just wanted to share our concerns with you today. And I'd be happy to answer any questions if there are any. [LB1052]

SENATOR COASH: All right. Thank you, Ms. Carritt. [LB1052]

NICOLE CARRITT: Thank you. [LB1052]

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SENATOR COASH: I'll ask. I understand Project Extra Mile's opposition. But my question for you is: How? I mean, you testified that this would...you're concerned that this would increase access to minors. My...have you thought through how it would increase? [LB1052]

NICOLE CARRITT: Our concern is really just making another avenue of availability for youth access by minors. That's our concern. We just wanted to share that with you today. [LB1052]

SENATOR COASH: Okay. Do you know...I guess we've...in Nebraska we've only had the wine-tasting cards on the books for... [LB1052]

NICOLE CARRITT: A couple of years. [LB1052]

SENATOR COASH: ...a couple of years. Do you have any data that would show that that's increased any consumption by minors either here or in other states that have it? [LB1052]

NICOLE CARRITT: Senator, I don't have any. I don't have any data. [LB1052]

SENATOR COASH: Okay. All right. Thank you. Any other questions for Ms. Carritt? Seeing none, thank you very much. [LB1052]

NICOLE CARRITT: Thank you. [LB1052]

SENATOR COASH: Is there any other testimony in opposition? Seeing none, we'll go to neutral testimony. [LB1052]

HOBIE RUPE: I didn't give it to her last time; I got in trouble. Hobert Rupe, H-o-b-e-r-t R-u-p-e, executive director of the Nebraska Liquor Control Commission, appearing neutral. I guess I'll just give a brief history lesson and then be happy to answer any questions of why we need this or why this legislative change we're neutral on whether you do it or not. The passbooking you've heard before. You have to remember, any time you're looking at why is there something in the act or why is there a difference, you have to look back to prohibition or what caused prohibition beforehand. And what this was, was the day where people would walk in with their paychecks, give it to the bar and say, tell me when I drank through it, and that was a practice that was utilized, it was a practice which was bad...you know, against public health because people would overconsume, there's no controls on it. And so that's what a passbook prohibition is. You can't really prepay for it because you're going to get...because the...it engineers overconsumption. The exception...first exception came for the wine for the, I think, in E Vino devices that...two years ago, and so they asked for a specific example, and then

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this is for the distilled spirits asking for the same. So that's why there...a change is needed because otherwise it would be considered passbooking. But it's one of those instances it's not really what the passbook in statute was designed to stop, you know, not buying, you know, \$25 ounces of whiskey. I know if I were to buy that I'd be in a little trouble with the wife for spending that much money. But the passbooking statute is designed to protect from a different type of activity other than this limited exception. But this thing came so late so the commission, you know, didn't really have a chance to look at it beforehand, so we're appearing neutral, sort of explain why a legislative change would be necessary. And I'd be happy to answer any technical questions. [LB1052]

SENATOR COASH: Thank you, Hobie. I'll ask a question here. In the green copy of the bill...and we're extending...the language in the statute is "tasting cards." [LB1052]

HOBIE RUPE: Yeah. [LB1052]

SENATOR COASH: And maybe we went through this when we added wine, but is "tasting cards" defined in the statutes, in someplace else that...? [LB1052]

HOBIE RUPE: I'm not sure. I don't believe it is. You know, I believe that they were...wine-tasting cards is what they were...was replacing because they were limited just to a wine-tasting card. I'd have to look and see whether it's defined elsewhere. [LB1052]

SENATOR COASH: I don't know if it's problematic or not. But if you go to any of the craft breweries you'll find a lot of times tasting cards which aren't...have nothing to do with transaction of money but they're called tasting cards and they're frequently used to describe the beers. [LB1052]

HOBIE RUPE: Yeah. [LB1052]

SENATOR COASH: And so I don't know if there's a need to clarify the definition because I think it's pretty broad. [LB1052]

HOBIE RUPE: You might need to. You know, the theory about here is because where you're looking at it is this is amending the prohibition on passbooking. [LB1052]

SENATOR COASH: Passbooks. [LB1052]

HOBIE RUPE: And so you might have to look at where the change in the statute is located at here and it's carving out an exception. [LB1052]

SENATOR COASH: Okay. [LB1052]

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HOBIE RUPE: We might need to define, you know, tasting cards, which would be prepaid, you know, of a specified amount of tasting cards for utilization. Mechanical, I think, it could be fixed, but that's the intent, you know, the...because, you know, they want to be able to, you know, not have to pay as you go, which causes problems and sort of...and according to what they say, disrupts the flow of a tasting is going around and trying...and the theory behind it would be if you're, you know...you know, if a bottle of whiskey is going to cost \$200, you might be more likely to buy an ounce to see whether you want to spend that much money on it first because I can imagine a \$200 whiskey having a lot of buyer's remorse if you didn't like it. [LB1052]

SENATOR COASH: All right. Thank you, Hobie. Senator Bloomfield. [LB1052]

SENATOR BLOOMFIELD: Under these tasting cards as we have them now, do you have to consume whatever you buy on the card that night or can you walk out with them? [LB1052]

HOBIE RUPE: No, I don't believe so. I believe it can carry over. [LB1052]

SENATOR BLOOMFIELD: So you can go in and buy this spirits card and take it back in. [LB1052]

HOBIE RUPE: Yeah. Yeah. I believe so. I mean, you...Dan might be able to explain how his works especially, but I believe that, you know, the last thing we would want you to do is to, well, you bought it, you've got to drink it. [LB1052]

SENATOR BLOOMFIELD: Well,... [LB1052]

HOBIE RUPE: You know, I'm not sure that's really sound alcohol management policy. [LB1052]

SENATOR BLOOMFIELD: I didn't want it to go there but I also don't want it to go out of the bar and be handed to a 20-year-old that maybe walks in the door without being carded at the door. [LB1052]

HOBIE RUPE: Yeah, well, you know, the key thing you have to look at, this isn't really opening up access to alcoholic places which aren't already licensed. They're already licensed for it. This is just they're choosing this way to do dispensing. So you're assuming there's going to be bar managers, bartenders there, especially at a tasting you're going to have people working the crowd saying, here's what, you know, talking up this brand or this...or not brand because that's what they're trying to do. They're trying to give it, you know, to make probably sales down the line of bottles, you know. So it's not like you're walking in and there's nobody there, you know. You know, there's employees there because they have to be there and they're...as Mr. Matuszek said, he

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only employs over 21-year-olds. And so far I think we've probably got four or five places using the wine-tasting cards. [LB1052]

SENATOR BLOOMFIELD: Okay. Thank you. [LB1052]

SENATOR COASH: Did...maybe you just answered this, but do you have...does the commission need to be aware through the licensing if you're going to use tasting cards? [LB1052]

HOBIE RUPE: No. [LB1052]

SENATOR COASH: So... [LB1052]

HOBIE RUPE: There's no requirement they give us notification but it would be a, you know,... [LB1052]

SENATOR COASH: So there's no...I mean, there's obviously no endorsement on the license, but... [LB1052]

HOBIE RUPE: No, no. [LB1052]

SENATOR COASH: There is no duty on a retailer to tell the commission, hey, we're going to use these cards? [LB1052]

HOBIE RUPE: To tell them? No. No. So far, the only place that's been utilizing are places, you know, like Brix, which are dealing with high-end wines, and it doesn't surprise me that they're going to spirits. And one thing you might want to consider, especially with craft breweries, beer, the way...you might...they might be next wanting to do these sampling...samples too. So, you know, and I know right now he's just asking for distillation to go along with the wine but, you know, it might come up two years from now he's looking at the craft beers. [LB1052]

SENATOR COASH: All right. Okay. Senator Johnson [LB1052]

SENATOR JOHNSON: Thank you. Can this be the first step in going to gift cards, buying license... [LB1052]

HOBIE RUPE: I don't...I don't... [LB1052]

SENATOR JOHNSON: I mean, okay, if I have ABC bar, I have to use it there. But if I have some other place that's...has many stores I could give a gift card and somebody could give it to somebody and they could use it. [LB1052]

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HOBIE RUPE: Well, somebody can already use...say I've got a gift card to a location. I can already use that, you know, because, you know, if I'm going in and let's say I've got a gift card to Hy-Vee, I can use that to buy anything I want, but I also can go by the liquor department and buy it. I can already use the gift card because it's already money. What this is, is dealing with a specific prohibition with the passbooking, which was dealing primarily with the on-premise consumption issues, and trying to make sure that people...you know, because the old fear was that people were just taking their checks into the bars and then they weren't having it to pay for groceries or rent or anything else. You know, that was the sin that passbooking was trying to stop. You know, gift cards, I mean, in a lot of ways it's no different than a lot of cash. I mean, you get \$50 cash gift, a \$50 gift card and you go into a retail establishment and spend it, you know... [LB1052]

SENATOR JOHNSON: So you could, in effect, you could go in and just have a spirit card because they wouldn't be that much different. [LB1052]

HOBIE RUPE: What the difference is, is what these do...what these do here is they'll have...and Dan can probably correct if I'm wrong. Let's say they're doing a scotch demonstration and they've got eight machines up with different types of scotch. Well, I'll get my card preloaded and then instead of having to go I can go there, place my card in, and it'll dispense that one ounce of scotch for me. I can try this one, oh, that's okay. Then I go to the next one, I put the card in there, and so it's actually an easier...so I'm not having to do a separate transaction with somebody behind the bar each time to that sample. That's what the...why it's a little bit different, I think, than more than a gift card. These are specifically tasting environments set up where they'll have a certain amount of machines which can read these cards so you can sort of try as you want in that area. But, you know, there's...so... [LB1052]

SENATOR JOHNSON: But, I mean, what Senator Bloomfield asked, if I could take it away, I mean, go home and come back at a later point in time,... [LB1052]

HOBIE RUPE: Well, I'm thinking that you probably...you know, I think you...you know, this should be...you know, if I buy six tastings and I only try three and my final one I really like and I say, well, I'm going to head out and go buy one and go home and then I got three other tastings for the next month when they're doing Irish whiskeys, you know, they could...you would still have that value on the card. I could try...do three samples at that time. [LB1052]

SENATOR JOHNSON: Okay. [LB1052]

SENATOR COASH: Thank you, Senator Johnson. Any other questions for Hobie? I don't see any. Thank you. [LB1052]

HOBIE RUPE: Thank you. [LB1052]

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SENATOR COASH: Is there any other testimony in a neutral capacity? Seeing none, Senator Karpisek to close. [LB1052]

SENATOR KARPISEK: Thank you, Senator Coash and members. I think what we want to get at here is that these cards, although they're preloaded, you don't just walk in and walk right up to a machine. You have to come in, you still have to...there's someone at the door. I mean, it'd be like going to a bar with a \$100 bill and only spending \$50 of it, going home, and so that you still have that \$50. Well, you could give that to someone else to go to the bar. They're still going to have to be carded and everything. So to get in you have to be carded. I don't know that we've had any trouble with the wine cards now. I haven't heard any. I've been there a couple times. It's...well, to Brix, and it's run very well. Another thing I think you have to remember is that these aren't just cheap, like he said, \$25 to \$100 for \$50 for an ounce and then the wines are not exactly something really cheap, like Boone's Farm. I mean, you spend some money for a small amount of wine. So I don't think that there's been any violations. I think it works really well. They do...they serve other things, too, so there are always bartenders coming around, waitresses or waiters, sell food, wouldn't have to but obviously this is going after the Brix model which I think has worked really well. So I'd be glad to try to take any other questions. [LB1052]

SENATOR COASH: Okay. Thank you, Senator Karpisek. Any final questions? Okay, seeing none, you are recognized to open on LR416CA. [LB1052]

SENATOR KARPISEK: Thank you. Now the one that I know about. LR...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. LR416CA would direct the Legislature to authorize casino gaming in Nebraska. LR416CA, if passed by the Legislature, would be placed on this year's general election ballot. If passed by voters, then the Legislature would need to pass enabling legislation that would outline Nebraska's casino gaming policy. A local governing body could then place the measure on the local ballot for local voters to decide whether to have a casino within its jurisdiction. LR416CA states that after regulatory expenses the taxable revenues would be allocated in the following way: 50 percent to reduce property taxes; 25 percent to elementary and secondary education; 12 percent to Nebraska Game and Parks Commission; 12 percent to the Nebraska Department of Natural Resources for water funding; and 1 percent to the Compulsive Gamblers Assistance Fund. In my eight years here we've done different gaming bills, all met with the same resistance, all with the horror stories that we've heard over and over and I'm sure that we'll hear again. This would take it to a vote of the people and I don't know what there is such an uproar about to let people vote. If we don't let them vote on anything else, we would be thrown out. But when I want to let them vote on gambling and trying to take care of some of these issues that the very same people complain about--high property taxes, K-12 education, all these things--here is an idea to fix some of these problems or at least help. I think it

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is a very important discussion that we have. Every state around us has casino gaming. We have the problems. We just had someone put on the board for problem gambling. Will that go up a lot or not? I don't know either. He wouldn't say. I suspect... [LR416CA]

SENATOR BLOOMFIELD: (Laugh) A wise man. [LR416CA]

SENATOR KARPISEK: He was a wise man. I suspect that we would have more issues. Is it going to be rampant? I don't know. I don't think so. If we want to gamble now, you can go over to Iowa. I was there about three weeks ago and I'd say a good 70 percent or 75 percent of the cars were from Nebraska and, no, they weren't all working there, before we hear that one again. There is a lot of people going to Iowa. If they have a problem, they're still Nebraska citizens. We try to take care of that. We have the lottery, keno, church bingo, which I think is probably my favorite. We have an enormous amount of illegal betting going on, but we all want to close our eyes to that and act like it doesn't happen or it's different. And I'm sure we'll hear about the crack cocaine of gambling, as Senator Schumacher already told us. Look, this is an idea to think about. This is a little bit spurred by term limits because I won't be here next year to bring Pat any more Christmas presents, so I thought I'd bring her one more. But I think it is a very good discussion that we need to have. People are addicted to things. If you have an addictive personality, you're going to be addicted. We have alcoholics; we have drug addicts; we have all sorts of different problems. We have gambling addicts in our state right now. Again, I think it's just a very important thing to talk about. We're losing hundreds of millions of dollars a year right across the border. I think about close to 70 percent of Nebraska's population is within one hour's driving of a casino. People are going to do it if they want to do it. This does not say how many there could be. I think the free market can decide that if we would go down that route. It doesn't say it has to be a boat, which we all know is a...I don't know what good that did. It's just...it's a question and I think a very legitimate one. And with that I'd be glad to try to take any questions. [LR416CA]

SENATOR COASH: All right. Senator Karpisek, thank you. Senator Bloomfield. [LR416CA]

SENATOR BLOOMFIELD: Thank you. How married are you to the idea of putting in the constitution where the money goes? I have a real issue with that. [LR416CA]

SENATOR KARPISEK: I know. You and I have talked about that, Senator Bloomfield. I guess if it gets your vote I'm not that married to it. I think... [LR416CA]

SENATOR BLOOMFIELD: We'll talk. [LR416CA]

SENATOR KARPISEK: I think though when we passed the lottery, when Nebraska passed the lottery, it was...I think a big reason for it was because it said where it has to

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go. I've already heard on TV someone tried to say, well, we don't know where this money would go. Come on, if it's in the constitution, you know where it has to go, that's where it goes, so let's stop trying to mislead people. This is very laid out. Here is what it is; here is where it would go. A future Legislature next year would have to pass some enabling legislation to say how it would be taxed. I didn't want to bring that this year because, if you remember, with Senator Lautenbaugh's historic horse racing there was a big uproar about the enabling legislation to go with that. So I did not bring that and the Legislature would deal with that next year. [LR416CA]

SENATOR COASH: Any other questions for Senator Karpisek? Seeing none, thank you. [LR416CA]

SENATOR KARPISEK: I'll stay to close, Senator Coash. [LR416CA]

SENATOR COASH: Great. [LR416CA]

SENATOR KARPISEK: (Laugh) I thought you'd be happy. [LR416CA]

SENATOR COASH: Okay. We will start with the proponents of LR416CA. You've got one. [LR416CA]

DAVID NICHOLSON: (Exhibit 17) Now I'll give this to you. Ladies and gentlemen, again, I'm David Nicholson, D-a-v-i-d N-i-c-h-o-l-s-o-n. I am a retired investigator with the Nebraska State Patrol. I was with the Nebraska Liquor Control Commission, and I was cross-deputized by the Bureau of Indian Affairs for law enforcement reasons, mainly because of my association with gambling on the Indian reservations that was anticipated on the Omaha, Winnebago, and Santee tribes. I did some extensive investigations over a two-year period of time doing demographic and geographic investigations in regards to gambling in Iowa and South Dakota, and the involvement of the investigations required me to do surveys of parking lots of the casinos, registering those vehicles licensed in Nebraska in these casinos in Council Bluffs; Sioux City, Iowa; North Sioux City, South Dakota; and Fort Randall, South Dakota. I was amazed. I had to dig pretty deep to get some of these figures. But in the two-year study, 38 percent of the vehicles at Council Bluffs were Nebraska-plated vehicles; 26 percent of the vehicles were Nebraska-licensed vehicles in Sioux City, Iowa, and North Sioux City, South Dakota; 22 percent were registered vehicles in the parking lot at Fort Randall, South Dakota. Of course, the drop in the percentage was because of the demographic and geographic location. That part of the state isn't as populated as we are. It involved talking with gamblers. I was amazed at some of the participation I got from gamblers. I would ask them, as a gambler, your frequency of coming to the casino, what is your tradition for gambling as far as money is concerned? I had some of them tell me it was none of my damn business, and then I had some of them were very cooperative and said...a lot of them were couples and they would say, well, we set a limit, we'll set a limit

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of \$100 or \$50 and when that's gone we're done. Some was as little as \$20 and we were done. The thing that inspired me the most was the honesty of these people to give you that information. And then I did studies visiting with technicians that worked on the machines and I'm going to give you the internal aspects of what happens in a casino. Most of the casinos operate mainly with the one-armed bandit slot machines. And they advertise--and it's not false; it's misleading but it's not false--that their machines pay out 97 percent profit. That is true to a limit. What it consists of, they may have 3,000 machines in the casino but only 300 of them pay off 97 percent and the rest of them are geared down to where the house makes the money. One machine pays out a limit, they move that payoff amount to another machine. So some people--and my mom's a good one at this--she goes to the same machine every time and I think the last two times she was there, well, it didn't pay off like it did in the past. Well, of course, Mom, it paid off the max so they moved that payoff to another machine. So I, you know, I found that out in talking to the technicians that run the machines. And most recently as Friday I communicated with the Nevada Gaming Commission regulatory agency and their enforcement agency and I was surprised. They were telling me that if we incorporate casino gambling in the state of Nebraska you are going to get a number of overseas investors wanting to invest in the casinos. And I said, is that right? He said, yes. I said, well, why would that be? And he says, these overseas investors know the casinos aren't in the business to lose money, it's a good investment. So that kind of surprised me. I said, what kind of an internal thing do we need to do as far as background investigations, locales, what do we do for, you know, financing. He said, the main thing is the financing, make absolutely sure you know where the money is coming from and where it's going to. We don't, he says...the enforcement division said they don't have the problem with New Jersey, New York, Illinois ties like they did in the past. It's pretty much controlled within the state of Nevada. My contention is that why do we need full-blown casinos? And I shared this with the guys in Nevada. I said, why don't we put them in our American Legion Clubs, our DAVs, our VFWs? Let's show these guys, these veterans, that we respect what they did in their military career and allow them to generate funds to help their people coming back from the wars. [LR416CA]

SENATOR COASH: All right. Thank you, Mr. Nicholson. The red light went on and I don't want you getting ejected here. [LR416CA]

DAVID NICHOLSON: Oh, okay. Questions? [LR416CA]

SENATOR COASH: Any questions for Mr. Nicholson? Seeing none, thank you very much for your testimony. [LR416CA]

DAVID NICHOLSON: Okay. You bet. [LR416CA]

SENATOR COASH: We'll take the next testifier in support. Seeing none, we will move to opposition testimony. [LR416CA]

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PAT LOONTJER: (Exhibits 18-24) Good afternoon, Senators. I'm Pat Loontjer. I'm the executive director of Gambling With the Good Life since 1995. We're in our 19th year. We are truly grass roots and we oppose any expanded gambling in the state. We've kind of drawn the line in the sand. We've never tried to do anything with existing gambling; not that we necessarily like it, but it's almost impossible to roll something back. And we're very concerned about this bill because there are so many questions that are unanswered in this. And once this bill is passed, if it does go on the ballot and if it does get accepted, then it's going to set up a civil war within the state because you're going to have counties against counties. If Douglas County got the license, there's going to be Sarpy and it's going to be...it's just going to expand, just exactly what happened in Iowa. When Iowa started they had two riverboats and the promise was that it was going to take care of their educational needs and it was going to bring tourism. It did neither. But what it did do was start this fight amongst the counties and now Iowa has 20-plus land-based casinos, no more riverboats, and they're still issuing...considering issuing licenses. And you have to ask yourself, how has it helped our neighbor? Since we're talking about money here, I'll throw out the figures that Senator Karpisek hates. But over 50 percent of the employees over at those casinos do come from Nebraska. And the Iowa tax base, both sales tax...is higher than Nebraska even with all of those casinos. And under...in Kiplinger's 2011 report, it was...Iowa was labeled a tax-unfriendly state for retirees. And it's not only Iowa that...they posted a \$300 million deficit in their budget for 2009, I believe. But we've also got Kansas and there's reports from Kansas on...when they did a study as far as expanding their gambling, on the potential health risks, and the report came back that there would be an increase in problem and pathological gambling; there would be an increase in child abuse and neglect; there would be an increase in domestic violence; an increase in divorce; an increase in alcohol use; and an increase in suicides. This is not the quality of life that we need in Nebraska. This is not the legacy that I think you should be leaving for our children and our grand children. This is a product that is destructive. And would it bring in money to...well, not even the General Fund. Yes, it will, but you've got to consider on the national studies it shows that for every \$1 a state gains in gambling revenue it costs them \$3 in social costs. Now we're getting...we're talking about money. But what about the heartache because that money that's lost in the casino is not being spent on main street, it's not being brought home to pay the tuition for the children or for their light bill or their...and we had a press conference in Omaha when we first kicked off back in 2006 when we were on the ballot and we had a group of religious leaders from all denominations and they got up there and spoke to the press and said, we are opposed to any form of expanded gambling because we are the emergency rooms, we are the ones that they come to when they can't make their electric bills or make their payments and we can't handle any more. And that's what we would be creating by expanded gambling. So I want to urge you to consider. I will give you all these forms to show you that...what the statistics are on the hot lines from Kansas. They had a 249 percent increase in calls to their gambling hot line just one month after the casino opened. It

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opened in December; by January the increase was off the charts. This is what we're going to be producing. We're going to be producing people that are hurting people, family members. And it's not just the addict. They said the average is 17 other people are hurt, whether it's family members, whether it's friends, or whether it's their business associates. Do we want to bring this hurt to the state? And when...the hot line showed that 41.4 percent of the total calls that came into that hot line came from slots, not from the other forms of gambling. And I'm going to give you the thing that shows the report on the Iowa deficit. And in Council Bluffs they are listed...out of 100 cities in the country with crime, they are in the lowest 3 percent. They have a much higher crime rate than in Omaha. And... [LR416CA]

SENATOR COASH: Okay. Thank you, Pat. The red light is on, so we'll see if there's any questions. [LR416CA]

PAT LOONTJER: Okay. I have these copies of these things for you. [LR416CA]

SENATOR COASH: All right. We'll get those handed out. I'll ask you a question, Pat. Do you...if this were put on the ballot, do you think...what do you think Nebraskans would say? [LR416CA]

PAT LOONTJER: Well, three times they've rejected it. They rejected it in '96, 2004, and 2006, 2006 by 61 percent. [LR416CA]

SENATOR COASH: So do you think they would do that again? [LR416CA]

PAT LOONTJER: Everything is changing. But what happens is when this goes on the ballot...we were outspent by 25 times. The money poured into the state. They bought all of the advertising. [LR416CA]

SENATOR COASH: And you won anyway. [LR416CA]

PAT LOONTJER: Yeah. Isn't that great? [LR416CA]

SENATOR COASH: So, well, my question, Pat, if you're... [LR416CA]

PAT LOONTJER: And I'm still waiting for that Christmas present from Senator Karpisek that he promised. I would settle for a fruitcake if he would just quit these gambling bills. [LR416CA]

SENATOR COASH: Okay. Okay, Pat. Senator Johnson has a question. [LR416CA]

SENATOR JOHNSON: I know your opposition and I've been against expanded gambling. The five areas here where the money would be used, do you think that's a

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plus or a minus if it goes to the voters? [LR416CA]

PAT LOONTJER: Oh, I think it would be a contributing factor to them voting yes because Senator Karpisek covered every man, woman, child, animal, you know, in the state to get...you know, everybody is in here. They're all going to get a piece of the action. But nothing goes into the General Fund, which I believe is going to...that's who is going to be paying the burden. It's going to come out of your budget to handle all of the embezzlements, the crime increase, divorces, the broken families. That's going to come out of your general budget. [LR416CA]

SENATOR COASH: Okay. Any other questions for Pat? Seeing none, thank you. [LR416CA]

PAT LOONTJER: Thank you. [LR416CA]

SENATOR COASH: Okay, we'll take the next testifier in opposition. If you're going to testify you can come on up and get a seat up here. [LR416CA]

DAVE BYDALEK: Members of the committee, for the record my name is Dave Bydalek, and the last name is spelled B-y-d-a-l-e-k. I'm the policy director for the Nebraska Family Alliance and I appear today to signify our opposition to LR416CA. We believe that casino gambling, especially the evolving form of casinos dependent upon video slots, will be bad for Nebraska's families and economy. Since the national gambling impact study over 20 years ago, the nature of gambling in casinos has substantially changed. In 1991 there were about 184,000 slot machines in the United States. In 2010 that number grew to 947,000, more than fivefold increase in less than two decades. Slot machines and other computerized gambling machines now occupy nearly all of the space on casino floors. A modern slot machine is a sophisticated computer engineered to create fast, continuous, and repeat betting. These slot machines are carefully designed to ensure that the longer you play the more you lose. These machines are highly addictive and are engineered to make players lose track of time and money. Problem gamblers also constitute a substantial portion of the revenue base for casinos. According to studies conducted over the past decade or so...and specifically I'm looking at studies by: Earl Grinols--he used to be at the University of Iowa; I think he's at Baylor now--John Kindt from the University of Illinois; and also a gentleman, the head of the economics department at the University of Nebraska, has forwarded a lot of studies about this to me. Problem gamblers, according to these studies, account for 40 to 60 percent of slot machine revenues. Nebraska Family Alliance believes that because of the highly addictive nature of these video gambling devices they will provide little economic benefit and lead to staggering social costs. There is absolutely no doubt that casinos in Nebraska will result in more problem gamblers in the state and the bottom line is that many Nebraska families will suffer as a result, especially children and the poor. There are, no doubt, many, many people who can enjoy gambling and do not

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become problem gamblers. Historically, however, gambling has been understood as an activity which created problems for the entire society. It is not an issue that can be looked at in a vacuum. It has produced numerous social costs and harmed families, finances, and reputations. The Nebraska Family Alliance believes that opening the door to more of these problems is bad public policy so we would, therefore, respectfully...respectfully ask that the committee indefinitely postpone LR416CA. Thanks. [LR416CA]

SENATOR COASH: Thank you, Mr. Bydalek. Any questions for Dave? Seeing none, thanks for testifying. [LR416CA]

SENATOR JOHNSON: Oh. [LR416CA]

SENATOR COASH: Okay. [LR416CA]

SENATOR JOHNSON: That's all right. [LR416CA]

SENATOR COASH: Well,... [LR416CA]

SENATOR JOHNSON: I'll ask him. [LR416CA]

SENATOR COASH: All right. [LR416CA]

SENATOR KARPISEK: We can get Pat up again. [LR416CA]

SENATOR COASH: At your own peril, Senator Johnson. Okay, we'll take the next testifier in opposition. [LR416CA]

LORETTA FAIRCHILD: (Exhibits 25 and 26) Good afternoon. I am Loretta Fairchild, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d. I'm here as a Nebraska-born Ph.D. economist specializing in government finance. First I must apologize to you for not having any even mediocre jokes to share. And I'm a lousy marketer so, please, beef up your own commonsense attentiveness to cover my deficiencies today. So what is the economic reality of bringing casinos into Nebraska? At the regional forums on tax reform held across Nebraska last year, gambling dollars did not...tax dollars did not show up as a major interest for citizens. And Dr. John Anderson, Nebraska's leading economist on public finance, has told the Legislature that in other states with casinos the extra costs are greater than all the extra benefits combined by at least double and it does sometimes run as high as \$6 of cost for every dollar of benefits. What are these costs and benefits? Forty Nebraska economists agreed on the list that you have been handed. It is never a good business decision to go forward with a project if the benefits can't cover the total cost, which is the reality for adding casinos. Nebraska money leaving state borders is not unique to casinos. Just consider all the Internet purchasing we do. Putting your efforts into getting

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Nebraska sales tax collected on those Internet sales will help Nebraska much more than casino taxes will. Gambling taxes have always used one of the three Es--education, the elderly, or the environment--to help their sales pitch. Reality is that, in California, school funding suffered badly after it was given gambling tax revenue because it's not enough to meet their needs. Are taxes from casinos going to improve the health of state and local governments in Nebraska? Not at all. Look at Illinois, one of the early adopters of casinos on all its borders. Its public finances today are among the worst in the nation, and they get tourists. Who pays the costs and who gets the benefits are also very important to the economics which should guide how you vote. The profits will flow to the special interests who are granted some ownership. Who will they be? Don't you want to know that before you vote? Will Nebraskans own all of each casino? Usually ownership is held mainly by the big national casino companies and most of the profits will go out to them. Do the native tribal peoples in Nebraska need good economic development? Absolutely, yes, in my opinion. Will whites in Nebraska vote to let our Native Americans have monopoly control over all new casinos in Nebraska? That probability seems very low, so whites will continue to own the best locations and get the lion's share of any profits and the Native Americans will also suffer hugely from the problems that have been outlined by other speakers today. Do you want to see slots or casinos all across Nebraska? This proposal is written in such an open-ended way we will most likely get either the Iowa model or the South Dakota model or some mixture as each town votes to bring in slots based on the fears that we'll be losing money to the next town over. Nebraska's regulatory framework for gambling will need a huge increase in staff and funding to even begin to adequately monitor this cash-based industry if you pass this. How will the Legislature fund it? My own research on counties in Iowa shows that when you compare similar counties with and without casinos on the growth of sales tax revenues over time, counties without the casinos are growing a bit faster in spite of losing all that money to the neighbors. Hmm. Casinos always make money, right? Sorry, the Great Recession made a myth of that. The Chamber of Commerce in Las Vegas is looking for ways to diversify. There's more but I'm out of town. The conclusion: Casinos are a bridge to nowhere, not to the promised land of low taxes forever that the proponents are offering. Please use your good Nebraska common sense and don't vote this...let special-interest legislation out of committee until two things happen. First, you ask for and receive in writing even one piece of good, unbiased research giving concrete evidence that casinos have produced benefits promised without even larger costs. So far, you have received nothing from those who are in favor of this proposition except unsubstantiated promises. Also, please wait until this legislative session has completed its work on the very serious issues already before it that are important for the state as a whole. Thank you for considering these issues as you vote. And if any of you or your colleagues are willing to grant me a little bit more of your precious time with some...anywhere along the way so that I can clarify some of these things I'd be very happy to try to do so. [LR416CA]

SENATOR COASH: Okay, Ms. Fairchild. We'll see if there's any questions. Senator

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Johnson has a question. [LR416CA]

SENATOR JOHNSON: I have a question and I don't know if this will open up the door for you or not. It's not my intent to necessarily do that. But I'll ask you the question instead of the sponsor. I got an e-mail over the weekend and it indicated that every casino makes \$539 which also translates to every adult...every...off of every adult. And the other side of it is so that means every adult loses \$539. Do you know where that number... [LR416CA]

LORETTA FAIRCHILD: No, I don't. Casinos keep their...casinos have a fantastic body of information on all the people who gamble there and how much they lose. But that kind of information would have to come from an insider and there hasn't been any mechanism. So it's some kind of an estimate. No, I'm not familiar with it. This gentleman reminded us of a fact that I have heard from various sources that the casino is set to pay out 90 percent. That says that you're losing ten cents on every dollar you play on average. Obviously, it's different for different individuals. But that's a very steady stream. That's why casinos in general are profitable. But they're not guaranteed profitable when the economy goes down and the competition goes up. [LR416CA]

SENATOR JOHNSON: I just wondered if it was the number of adults that...by name that go through there or by the number of people that come into a casino every 24 hours and somehow calculated... [LR416CA]

LORETTA FAIRCHILD: I'm sorry, no. [LR416CA]

SENATOR JOHNSON: ...because it looked like a very large number if we're talking every adult in Iowa or wherever this came from. [LR416CA]

LORETTA FAIRCHILD: Not every adult gambles. [LR416CA]

SENATOR JOHNSON: No. [LR416CA]

LORETTA FAIRCHILD: And most people gamble and meet their limits and leave when they've met their limits. But for those who are addicted and who are...part of what makes the casino industry...why you can't simply say, this industry is like all other industries and we should just let competition decide everything. This is a special case. It's like pollution, and I can explain that, too, but they have their own special form of pollution and they're particularly predatory. They pay midlevel staff people at \$100,000 a year to call people who are heavy losers who haven't been in for a few days and entice them back in. What other industry does that? That data, no... [LR416CA]

SENATOR JOHNSON: Thank you. [LR416CA]

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LORETTA FAIRCHILD: ...I can't...it feels a little uncomfortable to me. [LR416CA]

SENATOR COASH: Okay. Senator Crawford has a question. [LR416CA]

SENATOR CRAWFORD: Thank you. I wondered if you could tell us how economists tackle the question of the costs that leak across the border. So again, one of the issues that gets raised is that we already pay those social...many of the social costs already. So in talking about, you know, that the social costs are double, the social costs are three times, how do the social costs the state is already experiencing because of gambling across the border count into those calculations or analyses? [LR416CA]

LORETTA FAIRCHILD: That is very difficult to separate. [LR416CA]

SENATOR CRAWFORD: Um-hum. [LR416CA]

LORETTA FAIRCHILD: But it is absolutely true that we already are paying those costs. But they're hidden and they will continue to mushroom. I think the point that we have to recognize is that bringing the money home is much more of a distortion than the fact that the costs will rise. All the data about the fact that people in 90 percent of...70 percent of Nebraska's population is within the hour drive and so forth is absolutely true. But there's also very good evidence that the closer a casino and slot machine is to your home, the more likely you are to stop by and those who are likely to have troubles are more likely to become susceptible than if they have to be deliberate and think and now I have time off and I can drive somewhere and do this. So what you're going to see is an increase in costs and I think that is just irrefutable. Exactly how much and how fast and where, I don't think there is any way to do that. But how fast will the revenues rise? What I am most disturbed about is not where they're saying the tax money is going to go but not having any notion of how heavily the industry would be taxed. And are they going to tax on the revenues? Are they going to tax on the profits? These are crucial, crucial questions and to leave that up for a flip of the coin in the future just seems utterly irresponsible. You have no notion how much tax money is going to be generated out of this. [LR416CA]

SENATOR COASH: Okay. [LR416CA]

SENATOR CRAWFORD: Thank you. [LR416CA]

SENATOR COASH: Any other questions? Seeing none, thank you, Ms. Fairchild. All right. We'll take the next testifier in opposition. [LR416CA]

HARLAN ACKERMAN: Hi. [LR416CA]

SENATOR COASH: Welcome. [LR416CA]

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HARLAN ACKERMAN: My name is Harlan Ackerman, H-a-r-l-a-n A-c-k-e-r-m-a-n. I'm in opposition to this gambling bill because of the reaching effects that we have with it that I believe in and I know I'm...don't have the data that has been supplied by all the people before me and I'm strictly up here just to show my opposition to it because I know that whatever dollar is spent on gambling is taken away from somebody. And they talk about the profits that it goes to the state, but those profits are not even close to what is gone with the people that have bet them. You can...in my vision, there is only so much money in the state of Nebraska. It's not like if we have casinos there's going to be a big airplane and you're going to drop, you know, millions of dollars on us. So how we spend the money in the state of Nebraska is what affects me because when you spend money carelessly on gambling, you affect your community. That is not a turnaround in dollars and that's my main objection to it because it always sounds good when you say, we'll take the money and we'll give this much percent to somebody and this much percent there and it sounds very, very good. But the ill effects of the fact of it are worse than what you get out of it. So I'm...I'll let the people that have the statistics tell you more than I have. So I'm just in support of this bill...against it, against it, so opposition to it. [LR416CA]

SENATOR COASH: All right. Thank you. I don't see any questions. Thanks for your testimony. [LR416CA]

HARLAN ACKERMAN: What's that? [LR416CA]

SENATOR COASH: Thank you for your testimony. [LR416CA]

HARLAN ACKERMAN: Okay. [LR416CA]

SENATOR COASH: All right. We'll take the next testifier in opposition. Welcome. [LR416CA]

DAVE WIMMER: Good afternoon. My name is Dave Wimmer, D-a-v-e W-i-m-m-e-r. I'm a retired businessman--interestingly enough, a sausage maker, like the sponsor of this bill. We have that in common. Unlike the sponsor, I am opposed to this bill. I've had employees who were troubled and addicted by gambling. I've had family members troubled and addicted by gambling. I guess one way I look at this, committee members, is the Unicameral is officially nonpartisan. I look at this as an issue that seems to me to have numerous bipartisan reasons for opposition, whether you are a strong...have social reasons or economic reasons. We'll get to that a little bit later. But I also find particularly useful, and I would think the committee would, as a resource the testimony of Dr. Fairchild. She studies this stuff. She makes a living doing it in a scientific...what I think is a well-researched, factual, credible way that if I was sitting on this committee I would welcome that. I would consider that a powerful resource and I think it helps point

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the direction at less rather than more casino gambling. The testimony I've heard here in opposition also confirms my "go in and look around" policy, I call it. When I get around casinos, whether they are in South Dakota or Iowa or Kansas, I go in and look around. I sit down, have a beer, have a can of pop, and just watch. And I'd encourage you all to do the same. I don't know if you've all been in a casino recently. I'm not going to ask for a show of hands. I don't think that's my place. But I'd encourage you to go do that and just watch--and you're all smart people; you wouldn't be state senators if you weren't--and to go in and observe and spend a little time. And when you get done, come out and ask yourself, as I do, is it good public policy to make this type of activity easier or more accessible for your family members, your friends, your kids, your grandkids? That's the question I ask. And my answer to that is no. It's been a pretty consistent no over the years. And as I said, this should be a nonpartisan or a bipartisan issue. If you're the most rock-ribbed, fiscally conservative Republican around or the most socially liberal Democrat around, to me there's numerous reasons on both sides of the equation to oppose expanded casino gambling. I'm going to close with a quote from Warren Buffett. He has said that the human potential to gamble is huge. The easier it is made, the more people will gamble. Buffett called gambling a tax on ignorance and he said it was revolting for governments to prey on their citizens' weakness, rather than serve their citizens. In my opinion, pretty strong words by a smart and a thoughtful guy. Any questions? Thank you. [LR416CA]

SENATOR COASH: All right. Thank you, Mr. Wimmer. Appreciate your testimony. Everything, except for us being smart, that's probably pretty accurate. All right. We'll take the next testimony in opposition. [LR416CA]

JENISE BROWN: Good afternoon, Senators. My name is Jenise Brown, J-e-n-i-s-e B-r-o-w-n, and I am here in opposition to this gambling bill. I want to tell you a little bit about my family and I'll try and do this as quick as I can because I'm on a time clock. But I grew up in Holt County, north-central Nebraska, on a farm, and I grew up trusting my neighbors and my neighbors trusted me. We went over and we would get milk out of their tank and leave a note saying, I'm going to come back and I'm going to...I'll pay you next week, and they trusted me to take the milk out of their tank and I in return came through with my bill to pay them for my two gallons of milk. I don't have that trust any longer. I had a lady steal \$4.2 million from my husband and I this last year, past two years, and all of it went to gambling, every single dollar that I can trace. It went to Council Bluffs. I am not here to tell you personally all of my story because I can't. I'm spending every single dime that I have left in lawyers and fighting this all by myself with my husband. He couldn't be here today because he is meeting with two lawyers and two bankers and a businessman trying to save our business. My son is doing a seniors project story this...actually, starting it today. He just got his subject of which he had to go in and interview and actually begged to get this topic. His topic that he chose for his senior studies was gambling and they asked him in his study to tell his senior class and his staff members and his teachers why...what...his goal of his story in his topic is to

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promote justice and effect change and he's to take that topic and use it. I could not, not come here today because I need to promote justice and effect change. I cannot sit by and allow someone to pass a law that...a doctor, when he goes into practice, takes a code of ethics and his basic code of ethics is to do no harm. I'm asking you not to do any harm. If you pass this law you will be harming innocent people. There was a lady just this past weekend in Waterloo that was sentenced...is actually awaiting sentencing and was convicted and is awaiting sentencing on selling alcohol to a young gal that left and killed someone. Or actually she got...I don't know the whole story of that. But in talking to the senator that introduced this bill, he equated this to alcohol and personal responsibility. And, yes, there is personal responsibility here and she is in jail. And who is paying for that? You and me; you and me are paying for her to be in jail, the woman that stole \$4.2 million from me. But in equating it to the alcohol he tried to say that it's personal responsibility. It's way more than personal responsibility. They are predators. They do entice you. They do, do things and set it up so that...there is a certain percentage of people in our society that have a brain and the psychological...they're set up psychologically to be enticed to go there, to be enticed to be brought in, and they can't leave. They can't go by a casino without stopping in. This woman who stole from me was a very smart woman. She was very capable of being in your work force. She was intelligent. She got a job right after she left us at a bank because she interviewed so well; and she got a job right after us with another accountant. She presented herself an accountant. She got in a job right after that in the medical field in charge of his finances. I'm...she was a very capable woman but she was an addict and they set it up for her to come back again and again and again. She was there more days, more nights throughout the night than she was at home. You really need to think about what you're passing here. It's way more than just selling someone alcohol. It's way more than...I can't tell you...I have all the facts but I can't tell you those today because my lawyer is saying I can't. But I am spending every last dollar that I have fighting and if I win...if we, my husband and I, win this case, we aren't going to see that. It's going to go to lawyers; it's going to go to accountants; it's going to go to our bank. We really are devastated. Our family is totally devastated. And it's not because my husband was derelict in his job. He trusted someone. I started out telling you that I grew up trusting people. He trusted someone to do a job and she took advantage of that. She's going to pay for that. But we have laws on the books to keep someone from going out and killing someone with regards to your alcohol issue. Their...the casinos have no restrictions. They stood there and they watched her steal every single night, about 30 nights out of the month. They watched her steal from my husband and I knowing that it couldn't possibly be her money. They stood...they had someone assigned to her. They set up rooms for her. They set up...I better stop now because I'm telling you too much probably already. But I am telling you that it is predatory, they are predatory, and they will take every dollar that you can get and this cannot be good for the state of Nebraska. [LR416CA]

SENATOR COASH: Okay. [LR416CA]

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JENISE BROWN: And your job is here to represent the state of Nebraska, it is here to make...to protect people and my business, is to protect me and my business. And I'm asking you, please, to take this vote very seriously. [LR416CA]

SENATOR COASH: Okay. Thank you very much. [LR416CA]

JENISE BROWN: Do you have any questions? [LR416CA]

SENATOR COASH: Seeing no questions, thanks you for your testimony today. Okay. Is there anyone else here to testify in opposition? Seeing no other testifiers, is anybody here to testify in a neutral capacity? I think you already testified, Mr... [LR416CA]

DAVID NICHOLSON: Well, this...I wanted to share this information with you that's... [LR416CA]

SENATOR COASH: I...we're not going to...we can't do that. You're already on record and...sorry, Mr... [LR416CA]

SENATOR SCHILZ: Senator, if he'd want to give it to us individually that would be fine, yeah, when we're done. [LR416CA]

SENATOR COASH: Yep, you can certainly give any information you have, you can give to the clerk and we'll get it to the rest of the committee or... [LR416CA]

DAVID NICHOLSON: All right. I think it's very important. [LR416CA]

SENATOR COASH: Or you can talk to us individually. But you're already on the record so we're going to leave it at that. Okay. Is there anyone else here to testify in a neutral capacity? Seeing none, Senator Karpisek, would you like to close? [LR416CA]

SENATOR KARPISEK: I'd like to thank everyone who came in support and opposition. And I know that it is an emotional issue. It's emotional for me too. I do hope that the Browns get their money back. I feel horrible for them. It's not right. I will say this happened and it wasn't here. We don't have the gambling here. But I do hope...and I would be glad to help them with anything that I could do and I'm sure all of you would too. I don't know what we can do but I would offer that. I just want to go over a little bit of things that, of course, were off. I think Ms. Loontjer said that they...Iowa has 20 casinos--I think they have 17; that none are riverboats--they are. I was just on one. So that is not right. If 50 percent of their employees are from Nebraska, why don't we have 100 percent of Nebraskans working here? The employees do not park out in the main parking lot. I took some pictures when I was over there of the Nebraska cars trying to get a row...as many Nebraska cars in a row as I could and I couldn't fit them all on my phone because every one in a row was Nebraska. And you turned around and

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three-fourths of that row was Nebraska. The...if you actually can cash out a ticket at Ameristar--I wasn't able to but who I was with was--it says on there, \$290 million is used to Buy Iowa First out of the 17 casinos. I meant to bring that as a visual aid today and I forgot. But \$290 million is bought in Iowa from that money so that has nothing to do with just the money that they bring in, but that's what they turn around and use for economic development. We heard about a 249 percent increase in the hot line. We didn't hear how...what those numbers were. It could have been one to five. I don't know. And I don't mean to make light of that, but we all know about increases around here and if you raise something from \$1 to \$2 it's 100 percent. I'd also wonder what Council Bluffs's crime rate was before they had casinos and what it looked like before. I don't hear anybody talk about any other towns that are doing well or look good that have casinos. We always hear how Council Bluffs is so bad and rundown. I wasn't there before. We talk about if this went on the ballot the amount of money that came into the state. We were just arguing about that on winner-take-all, how much money comes into the state because of a ballot issue. Money coming into the state isn't bad and I still say the Gambling With the Good Life has more backing in money than all the casinos that were here to testify today, that's for sure, because I didn't see one. I agree that we should put a tax on Internet sales and I think we had a bill to do that. Of course we are supposed to put all those on our income-tax statements. So to say that we're not getting that is because people aren't doing what they're supposed to do. We hear about special interests. Who is the special interest today? I didn't see anyone here other than people against this bill. When we talk about special interests, I really have to chuckle. Every church, farmer, electrician, you name it, has a special interest here. They've all got lobbyists; they've all got people here. So special interest, I don't think so. We heard that the casinos collect information on everyone--only if you get a player's card. I finally got one the other day because I don't go much. But I don't think they can watch me without a player's card to know how much money I spend. I did not want to put in the constitution how this should all work. I could have had enabling legislation but, again, we had such a big fight about that on the historic horse racing that I didn't want to bring that. It is all...you know, and we heard that, well, this is just all up in the air. It is not. It says right where the money will go. I agree the money won't get dropped out of an airplane, but it'll stay here. That's about all I have on that. I think it's a very straightforward bill. If you don't like gambling, I understand and I'll give you...you know, I respect what your thought is. It's funny how the respect doesn't go both ways. I am not here to break Nebraska. I'm tired of seeing that amount of money go. And, Senators, you all know how many e-mails, phone calls, and just irate people you get about property taxes, about K-12 education, all these things. This is a way to think about trying to do something. Is it perfect? No. If Nebraska was the only state that was looking at gambling and not...everyone around us didn't have it, I wouldn't bring this. We have the problems. I do appreciate Ms. Fairchild. She was, I thought, very honest and open and I understand what some of her issues are. I think we all do. I do hope we get this out of committee, onto the floor, and at least have this discussion because when everybody says we're not doing anything but no matter what we try to do is wrong it makes it tough.

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I'd be glad to take any more questions. And this is my last bill that I get to introduce in this committee as Chair. I don't want to hear all the applause behind me. (Laughter)
[LR416CA]

SENATOR COASH: All right. Thank you, Senator Karpisek. [LR416CA]

SENATOR KARPISEK: Thank you. [LR416CA]

SENATOR COASH: (Exhibit 30) I think we do have some closing questions here. But before we close the hearing I'll read into the record a letter of support on this constitutional amendment from the Nebraska Natural Resources Districts. Senator Johnson has a question for you. [LR416CA]

SENATOR JOHNSON: Maybe we have to defer to legal counsel; I don't know.
[LR416CA]

SENATOR KARPISEK: (Laugh) Probably, yeah. [LR416CA]

SENATOR JOHNSON: The way it's written with the five categories and percentages, if those...these are all hot buttons right now and I'm not saying they'll go away. But if we were to move this forward and we would have five categories, would it take a vote of the citizens or could it be by the Legislature to review every five years or something to reallocate? [LR416CA]

SENATOR KARPISEK: It would be a vote of the citizens because it would be changing the constitution. And we did try to word it broad enough that we didn't say that it would go to TEEOSA because TEEOSA might not be here. But there will still be K-12 education. We talked about a water fund, whatever it might be. [LR416CA]

SENATOR JOHNSON: Yeah. [LR416CA]

SENATOR KARPISEK: I think Game and Parks would be here; property taxes will be here. [LR416CA]

SENATOR JOHNSON: Well, I think these are all in need. I just wondered if there was another way that it could be left up to the Legislature. [LR416CA]

SENATOR KARPISEK: You know, it could be put in enabling legislation, Senator, and again I didn't think that that would do it because people would say, well, you'll just change it right away and we see people trying to steal money all the time, especially from the lottery, many of our fellow senators that are very antigaming but sure do like the Environmental Trust. [LR416CA]

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SENATOR JOHNSON: Yeah. Just curious where that would fall. Thank you. [LR416CA]

SENATOR KARPISEK: Yeah. That...and if I'm wrong, legal counsel will tell us. (Laugh)
[LR416CA]

SENATOR COASH: Senator Bloomfield. [LR416CA]

SENATOR BLOOMFIELD: Thank you. You mentioned the Environmental Trust, and that's precisely why I don't like the language that we have in here. [LR416CA]

SENATOR KARPISEK: Um-hum. [LR416CA]

SENATOR BLOOMFIELD: Can we not at some point amend this to where it's we just put it in the treasury and then the Legislature decides what to do with it without...
[LR416CA]

SENATOR KARPISEK: We sure could, Senator. I just think that a lot of why people would favor this is because I think they don't trust the Legislature to put it to these places because we see every year there is people trying to move money around from the lottery, the education funds, and they try to go back and forth and... [LR416CA]

SENATOR BLOOMFIELD: I think the people of Nebraska have an issue with money sitting in funds not being utilized while we're collecting taxes on them. [LR416CA]

SENATOR KARPISEK: And I... [LR416CA]

SENATOR BLOOMFIELD: And we can discuss this as we go along and... [LR416CA]

SENATOR KARPISEK: I could...I would definitely agree with you but I think most of these, they would, they sure would get used up. Well, you know, and let's be honest, I put them to those things for a reason. Senator Avery wants to complain about Game and Parks funding, there you go. Senator Carlson wants money for water, there you go.
[LR416CA]

SENATOR BLOOMFIELD: And that's good. But what is now a hot topic three years from now we're going back begging the people again to change it and I... [LR416CA]

SENATOR KARPISEK: I know and...I just don't see these five things going away because we did look at other things and we said...decided not to. [LR416CA]

SENATOR BLOOMFIELD: We'll discuss it more as we go along. [LR416CA]

SENATOR KARPISEK: We sure can discuss this, Senator. [LR416CA]

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SENATOR COASH: Any other final questions? [LR416CA]

SENATOR KARPISEK: Thank you. [LR416CA]

SENATOR COASH: With great trepidation you are excused for the last time. [LR416CA]

SENATOR KARPISEK: (Laugh) The last time ever. [LR416CA]

SENATOR COASH: Thank you, Senator Karpisek. [LR416CA]

SENATOR KARPISEK: Thank you. [LR416CA]

SENATOR COASH: That will close the hearing and we're going to go into Exec Session. Thank you. (See also Exhibit 32.) [LR416CA]