

Transcript Prepared by Clerk of the Legislature Transcribers Office

General Affairs Committee March 13, 2023

Rough Draft

LOWE: Welcome to the General Affairs Committee. My name is John Lowe, and I'm Chairman of this committee. Our hearing today is your public part of the legislative process. This is your opportunity to express your thoughts and opinions on proposed legislation before us today. Committee members might come and go or they may be here late during the hearing. This is just part of the process. They have bills to introduce in other committees on occasion. The order of bills has been posted outside the hearing room. With this, we'll first have our appointments come up first today. I ask you to abide by the following procedures to facilitate today's meeting. Please silence or turn off all cell phones or electronic devices. All right. I'm good. Please move to the reserved chairs in front row as you prepare to testify. So please move forward as your turn is approaching. The introducing senator will make his introduct-- introduction remarks followed by the proponents and opponents to those, and then those in the neutral. Closing remarks will be reserved for the introducing senator of the bill. If you are planning to testify today, please pick up one of the green sheets on either side of the rooms on the table in the back. Please fill these out ahead of time as you come up to sit down to testify. Please hand it to the committee clerk on the left side of our table here; my left, your right. Please make sure to print clearly your name and phone number so we can report accurately who testified today. And this will be the way the transcribers will contact you if they need any verification if they need to. So please print clearly. If you do not want to testify but wish to report that you were here, there are white sheets on the table, and you can fill those out and, and it will go into the official record that you were here. And it indicates whether you are a proponent, opponent or in the neutral. If you have handouts, we ask that you bring 10 for the committee and hand them to one of the pages so they can be distributed to the committee. If you do not have 10 copies, please let the pages know and they will try to facilitate the copies. When you come up to testify, please speak clearly into the microphones. We're going-- and please state your name then spell your whole first and last name. Again, this is so it can be recorded correctly. We will be using the light system today. We will be going on a three-minute time limit. You'll be given two minutes for the green light, one minute on the yellow. And when the light turns red, we ask you to briefly end your testimony. And it's underlined briefly in my notes here. No displays of support or opposition for a bill, vocal or otherwise, will be allowed. The committee's members with us today will introduce themselves, starting on my right with Senator Brewer.

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BREWER: Tom Brewer, District 43, 13-- sorry-- 11 counties, southwest Nebraska.

J. CAVANAUGH: Jon Cavanaugh, District 9, Midtown Omaha.

DAY: Good afternoon. Jen Day, Legislative District 49 in Sarpy County.

HUGHES: Jana Hughes, District 24: Seward, York, Polk, and a little bit of Butler County.

HOLDCROFT: Rick Holdcroft, District 36: west and south Sarpy County.

LOWE: Laurie Holman is our committee counsel, and Ben Earhart is our committee clerk. Our pages today are Ethan and Luke. If you guys want to stand up and introduce yourselves and say what you're majoring in.

ETHAN DUNN: Sure. Hi, I'm, I'm Ethan. I'm a poly sci and a philosophy major.

LUKE McDERMOTT: I'm Luke. I'm a political science and economics major.

LOWE: All right. First, we're going to call up Brian Botsford with the Nebraska Arts Council. Brian, how are you today?

BRIAN BOTSFORD: Good.

LOWE: Good.

BRIAN BOTSFORD: I'm flattered. So many people showed up for me.

LOWE: Who says they're in favor?

HUGHES: Popular guy.

BRIAN BOTSFORD: Well, at least I'm important.

LOWE: Thank you. And please proceed.

BRIAN BOTSFORD: Do I need to say my name? Is that--

LOWE: Yes.

BRIAN BOTSFORD: B-r-- Brian Botsford, B-r-i-a-n B-o-t-s-f-o-r-d.

LOWE: OK.

BRIAN BOTSFORD: I'm here to-- I was asked and approached by the Nebraska Arts Council to be a board member, and I'm here to submit myself as a candidate to be a member of the board of directors for the Nebraska Arts Council. I have worked as an educator in the arts for 23 years. I've been teaching instrumental and vocal music currently in Lexington, Nebraska. 11 years there. 11 years at Bishop Neumann High School in Wahoo, and then one year in Superior. And in 2009-- I think we've had officially 12 seasons. In 2009, we started Crane River Theater Company out in Kearney, and that has been my introduction to what you might think of as more professional arts in the state of Nebraska. We've been operating 12 seasons of professional theater through central Nebraska. And now I'm interested, excited about the opportunity to work with the Arts Council.

LOWE: Thank you, Brian. Are there any questions? Yes, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Lowe. Thank you, Mr. Botsford, for being here and for your willingness to serve. I appreciate you pointing out-- I normally like to ask how folks came to apply, and so they, they reached out to you. So have you worked with the Arts Council?

BRIAN BOTSFORD: Through Crane River Theater, mostly. We have another small organization in Kearney called the Platte River Singers, and I helped write a few grants through the Arts Council that way. But my-- most of my experience came from Crane River. We received quite a bit of money over the past few years, so I got a real idea of what the Arts Council is able to do for organizations.

J. CAVANAUGH: And do you have any, I guess, constructive criticisms, things you would change about how the Arts Council does that process?

BRIAN BOTSFORD: Actually, no. I, I thought, from the very beginning-- as with any time you're getting money from government organizations, there are all kinds of hoops to jump through, paperwork to fill out, and all kinds of confusion. One phone call and they were instantly helpful to figure out how to make all that happen. So I think they do a great job.

J. CAVANAUGH: Oh. Well, that's good to hear. So-- sorry. I had another question. Now I'm blanking on it. So-- oh, I know. You've worked with them before. And obviously, you understand that, that they're a

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granting agency. Do you know-- is-- do you serve a specific purpose?
Is there like a geography-- a geographic breakdown of the--

BRIAN BOTSFORD: When, when they spoke to me, they were interested in finding somebody in outstate Nebraska, and they spoke that they hadn't had a person from Kearney for years and years. And there's just an awful lot that's going on in the city of Kearney regarding the arts, and so they were excited about the chance to maybe find somebody in that community.

J. CAVANAUGH: So having somebody from that community kind of helps connect the two, make that connection between--

BRIAN BOTSFORD: Yeah.

J. CAVANAUGH: --the local arts community and--

BRIAN BOTSFORD: Yeah.

J. CAVANAUGH: OK. Thank you.

BRIAN BOTSFORD: Um-hum.

LOWE: Thank you, Senator Cavanaugh. Any other questions? Brian, can you tell us a little bit about Crane River Theater?

BRIAN BOTSFORD: Sure. I wrote some notes just in case you asked. It has been a really great example about how successful the arts can be in Nebraska. You, you know, Kearney is a city of, let's say, 30,000. Isn't that about right? 30-- and in the last 12 seasons, we have had 170,596 audience members to come to Crane River shows over 12 seasons. And we have, just to hit you with numbers, 31,000 individual student opportunities to, to receive arts education through our programs. So-- and we-- currently, just to give an example of what the Arts Council can do, our Crane River budget-- the, the most recent numbers that I have that are trustworthy-- 2021 season, our annual budget for Crane River was \$600,000 that we spent. And of that, \$18,000 came from the Arts Council, which is just a way to show that a very small portion of our budget comes from that pool of money. But having that stamp of approval from the organization like Nebraska Arts Council makes it really easy for us to find extra funding and for us to show that we're a worthy organization that other people can fund. That's sort of the power the Arts Council can have as it helps arts organizations across the state. It's not only just the dollars and cents, but the amount of money that they can invest in an organization gets paid back many

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times over just from the stamp of approval from the council, and that's been a huge help for Crane River.

LOWE: Can you explain the Yanney Park audience and, and what it looks like to the, to the arts?

BRIAN BOTSFORD: Yanney Park in Kearney has an outdoor amphitheater-- excuse me-- and we started several years ago. The, the very first show we produced, You're a Good Man, Charlie Brown back in 2000-- I think it was '10 or '11-- we offered a free production to the city of Kearney. And for several years in a row, we continued with a free production until it just came to the point we could no longer make it free. And we started to charge as little as \$5 is what we charged for people to come because we want the whole community to be able to enjoy the arts. And at this point, we've had shows-- the year that we did The Wizard of Oz, we had 12,000 people come over nine performances to come see The Wizard of Oz. And we do an informal poll. It's, it's, it's an outdoor show. It's in the middle of the summertime. It's very hot. It's sweaty. We don't have people fill out paperwork. We do an informal poll with a show of hands and a cheer from the crowd. How many people are from in-town and how many people are from out-of-town? And we, we draw about 50 percent from outside the city, which means we're bringing in tourism to the community, you know. Local tourism, but still tourism dollars to the community. So it has been a real benefit to the local arts and it has been a benefit to the local economy. It's just really a great thing that the city is supporting. And when I say that we're a professional company, we actually do hire artists. We've got-- we hire actors and designers and things. We've had, I think, 35 different states that people have come to. And, what did I say? 183 artists we've hired from outside of Nebraska to come in, and they've gone on and been in movies and television, and that's kind of a fun thing. That's just-- so-- I know we're not here to talk about Crane River, but it's a really great example of what is possible for the arts in Nebraska outside of-- there's no surprise when you see the Omaha Symphony and they have a huge following. And there's no surprise when you see the Lied Center in Lincoln that does so well. But you go out to a small place in the middle of Nebraska, like Kearney, and we've got something really thriving. And that's what, what the Arts Council can help do all over the state of Nebraska.

LOWE: Thank you. Are there any other questions? Seeing none. Thank you, Brian. I appreciate--

BRIAN BOTSFORD: Thank you.

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LOWE: --you coming down today. And that ends our hearing on Brian.
And--

BRIAN BOTSFORD: Am I free to go?

LOWE: Yeah.

BRIAN BOTSFORD: OK.

LOWE: Yes. You're free to go.

BRIAN BOTSFORD: Thank you.

LOWE: So I guess we'll ask for proponents for Brian Botsford. Seeing none. Are there opponents? Looks good for you. Are there any-- is there anybody in the neutral? Seeing none. Thank you very much, Brian. I just want to-- I see two Girl Scouts sitting in the front row. Are there any more Girl Scouts here today?

_____ : Yes. There's a group of around 12 around the cafeteria.

LOWE: All right. Well, welcome. And thank you for coming to our committee-- the best committee, by the way. We'll, we'll now go to Trent Loos. And Trent is on the State Racing and Gaming Commission. And he is a government-- or, Governor appointee. Trent.

TRENT LOOS: Thank you, Senator. Upstaged by the Girl Scouts. That's a good place to be.

LOWE: Sorry.

TRENT LOOS: My name is Trent Loos, T-r-e-n-t L-o-o-s. And I really do look forward to this opportunity to visit with you. And I've been anxious to have this day for quite some time. I'll just give a little bit of a background on why I'm here. I'm a sixth generation United States livestock producer. I've actually calculated this because many animal rights people want to take me to task. I've cared for-- daily cared for 1 million animals in my lifetime, and I'm actually only 56 years old. But I say that because it, it gives some scope into the number of animals that I've cared for on a regular basis. And 23 years ago, my wife, Kelli, and I were ranching on the Rosebud Reservation in South Dakota. And we were running cattle. We were involved with some pigs and-- pigs owned by the Rosebud Sioux Tribe, in fact. And there continued to be an onslaught of individuals who had come, particularly

from the animal rights community, and talked about the dangers of owning livestock, the dangers of taking care of these livestock and why we needed to get rid of livestock, period. Because of that attack on animal agriculture, I decided that I needed to-- I should say "we," because as I spend more time on the road, we do not hire anybody. My wife takes care of what we have at home today in Sherman County, Nebraska, just by Hazard. So we made the decision to get involved in educating the consumer about who, where and how is producing their food. And my wife, Kelli, is fifth generation from Sherman County. Her roots go back very similar to mine in terms of her involvement in animal agriculture. So I started doing radio, worked into media, all with the intent of educating people about the purpose and the real reason of animal agriculture. And at every turn, there would be an animal rights contingency which was very well-funded and wanted to be a challenge. Kelli and I moved to Sherman County, where her parents currently still live, where she grew up, in 2002. And I recognized-- there was two things that I wanted to continue in Sherman County and focus on, and that is, number one, I spent six years working hand-in-hand with Governor Ricketts trying to fix a property tax problem that we have in Nebraska. Personally, our property tax has gone up 230 percent since 2010. I don't need to tell you the rest of that story. You know the rest of that story. But I also saw the need for community and a stronger community. And I'm very passionate about animal agriculture. And I started to research-- I actually read the Great Plains Encyclopedia. If you've not read that, it's right here from-- based in Lincoln. And, you know, there was a common denominator in that Great Plains Encyclopedia, what built our communities to be as strong as they are. And that common denominator was, every Sunday afternoon, there would be a horse race, just down Main Street, whatever the case may be. And it was that camaraderie that brought everybody together. And as we go forward in 2023 and beyond, it's pretty clear that we need the same type of camaraderie and community to come back. So from a property tax standpoint and from a community, camaraderie and the animal rights attack that's currently taking place with the HISA Act, I look forward to the opportunity to be a part of the Racing and Gaming Commission. That, that was brief, briefly, right after it went red.

LOWE: Yeah. I, I, I didn't turn off the red light so you can continue on with your comments. I appreciate that, Trent. Are there any questions? Yes, Senator Hughes.

HUGHES: Thank you, Chairman. Thank you for coming in and putting yourself up for this position. What do you see as the biggest

challenge and biggest opportunity for racing and gaming then here in Nebraska?

TRENT LOOS: So I briefly alluded to the greatest challenge from a horse racing standpoint, and that is federal regulation that will incur-- the racetracks will incur \$72 million of additional regulation from the Horse Racing Integrity Safety Act, which was an unnecessary provision added to the omnibus bill in December of 2020 and December 2022. Once ruled unconstitutional by the Fifth Circuit Court, the Sixth Circuit Court said it was constitutional, so that's headed for Supreme Court. But the challenge is what's going to happen to these racetracks outside of the three big ones as they try to get to where we see that there could be a Supreme Court ruling. So I'm-- and, and here's the thing about this, Senator, is that-- I talk about \$72 million. These racetracks were already doing what this HISA Act says they should be doing, but they're going to have to spend \$72 million to do what they were already doing at a cost which in some cases triples because the USDA says they're going to have their veterinarians come in and do the work that will triple the cost for the track. I've been Fonner Park for the last two Saturdays. I've mingled with the people. I see the camaraderie that I was talking about earlier. You know, the most important thing I see when I'm at Fonner Park or any of the racetracks we have-- Fonner season's going on now-- is all of the parents that bring their kids and how that inspires us to come back to the community. And the other thing that I didn't mention in my time slot, because the yellow light, is that at every step in my animal agricultural career, I've been involved with genetics. And there's something tremendously inspiring about identifying genetics that make horses faster, give them more stamina, whatever the case may be. That's from the horse racing side. From the casino side-- you know, we, we know. We have a track record. We see what has happened at Warhorse in Lincoln. They've got off to a great start in Fonner Park with the casino, which opened-- the grand opening-- two days-- or, Tuesday after Christmas. The question will be-- and, and the results all look fantastic. The question will be, how many casinos can the state of Nebraska efficiently handle? And that falls upon the commission to make that determination. 74 percent of the Nebraska citizens in this election, general election of 2020, said, we want racing and gaming to expand in Nebraska. As a commissioner, I see it upon myself, as the rest of my commissioners, to make sure that these applicants follow the statutes and yet follow the will of the people of Nebraska who said, we want this expansion for the purposes of horse racing and for the purposes of property tax

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reduction, which I see both of those being vitally important to the future of our state.

HUGHES: So then that kind of leads me to, what are your thoughts, thoughts regarding the socioeconomic study that right now is required before we would expand any by 2025? Or have you even given thought to that?

TRENT LOOS: I, I have not given a lot of thought to that.

HUGHES: OK.

TRENT LOOS: But what I would say is that it, it-- to follow up on what I mentioned before. If an applicant meets the statute and says what they have to accomplish in order to be a legal gaming entity, we have to make that determination of when that saturation point is. I don't honestly have enough information to answer that question now.

HUGHES: OK.

TRENT LOOS: I'm quite-- to be honest, I'm quite perplexed at the number of people that are willing to wager, period. But I've made a career out of wagering because I've wagered against Mother Nature in agriculture since I was born.

HUGHES: All right. Thank you. Thanks for coming.

LOWE: Thank you, Vice Chair Hughes. Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Lowe. Thank you, Mr. Loos. Was it Loos?

TRENT LOOS: Loos. On the loose.

J. CAVANAUGH: On the loose. Got it. Thank you for being here and your willingness to serve. So-- just-- first, kind of general question, when did you get appointed to the commission?

TRENT LOOS: Governor Ricketts asked me last summer after the official language was put forth and the new statute that came out.

J. CAVANAUGH: OK. So-- and that was kind of my second question is, did you seek out appointment or somebody asked you to apply? So the Governor did not--

TRENT LOOS: I did not, I did not seek out appointment. The appointment came about because, as I mentioned previously, I had worked hand-in-hand with the Governor for six years on the property tax relief bill. I sat in this chair every year for six years asking for property tax relief. And I saw and I learned through that six years that the true property tax relief comes back in Sherman County or Seward County, whatever county it is-- Sarpy County where you come from-- not necessarily in the state of Lincoln. But what we can do to piecemeal and give some relief to the landowners is vitally important.

J. CAVANAUGH: So-- OK. Well, to, to put a point on my question, though, Governor Ricketts asked you to apply.

TRENT LOOS: Correct.

J. CAVANAUGH: OK. And do you know-- do you serve a specific-- you know. Some commissions, like, have a geographic distinction. Are you, are you filling a specific, specific spot on the Racing and Gaming Commission?

TRENT LOOS: I'm filling the expansion, the expansion slot of the ballot initiative, as I understand it.

J. CAVANAUGH: So would that be an at-large spot then-- statewide, not by congressional district?

TRENT LOOS: The executive director is in the room. May I ask him?

J. CAVANAUGH: Well, we can ask him later, but.

TRENT LOOS: OK.

J. CAVANAUGH: I don't need to put you-- I'm not meaning to put you on the spot. These are just kind of general questions I'm trying to ask--

TRENT LOOS: I, I served the District of Nebraska, to the best of my knowledge.

J. CAVANAUGH: Well, from my reading of the statute, there's some spots that are by congressional district and some spots by at-large, and so I'm just trying to figure it out.

TRENT LOOS: I can tell you in my appointment to the Capitol Commission, where we authorized \$135 million for better air and

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heating in this building, I served the 3rd District on the Capitol Commission, and I've probably done so for the past three years.

J. CAVANAUGH: OK. And do you know if you serve to fill a specific spot for a political party?

TRENT LOOS: I'm a registered Independent if that's the question.

J. CAVANAUGH: Well, it sort of is, I guess. And-- but you ran in the Republican primary last year?

TRENT LOOS: I ran as-- correct. I was an Independent. Theresa Thibodeau was somewhat persuasive and getting me to switch my party to Republican. Immediately after the primary, I ran-- I switched my affiliation back to Independent.

J. CAVANAUGH: OK. So you were an Independent then--

TRENT LOOS: But before, before the primary, correct.

J. CAVANAUGH: OK. That was kind of what I was trying to--

TRENT LOOS: Yep.

J. CAVANAUGH: --question there. I don't-- I can-- I got other questions, but I don't have to-- [INAUDIBLE] have questions?

LOWE: Go ahead.

J. CAVANAUGH: Oh, all right. Great. So kind of changing tack. So you've been on the board, I think, if I remember, since September or October.

TRENT LOOS: Correct.

J. CAVANAUGH: All right. And you talked about the federal regulation. Sounds like you've got a disagreement with that federal regulation.

TRENT LOOS: I do.

J. CAVANAUGH: OK. So in your capacity on the board, though, it would be to facilitate our interaction with that federal regulation, is that right?

TRENT LOOS: Our capacity on the commission would be to gather the amount of information needed to empower our member tracks to make the

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best decisions possible: the best decisions for the trainers, the best decisions for the horses and the best decisions for the people of the state of Nebraska.

J. CAVANAUGH: But those decisions, if they find themselves afoul of federal law, wouldn't that cause them a problem?

TRENT LOOS: Correct.

J. CAVANAUGH: OK.

TRENT LOOS: We'd ne-- I did not say that we would inspire someone or motivate them to outside of the federal law. The current situation is that it, it's like a, a hijacking. If you don't follow these regulations, federal government doesn't care. You simply can't send-- export your simulcast outside of the state of Nebraska, which the intent is to put financial harm in the track-- racetrack's future because there is an intended effort, as I mentioned earlier, to eliminate animal ownership from individuals, period. And that's what I've been fighting for 23 years.

J. CAVANAUGH: I'm-- I guess I'm having a little trouble following that. So you're saying that there's a federal law that's trying to prevent private ownership of animals?

TRENT LOOS: No. That's not what I said.

J. CAVANAUGH: OK.

TRENT LOOS: There is a movement and has been for my tenured 23 years in media to take on the animal rights community, which is very well-funded. Many out-of-state, out-of-country dollars come in to try to create a path to where people cannot own animals. That is not the, the HISA Act itself. The HISA Act has parameters for how we have to test for doping, how we have to do all of these things in terms of the whip and how often you can use the whip. That is indeed, indeed motivated by the same people who do not want us to own animals. Does that make sense?

J. CAVANAUGH: I mean, I, I guess I understand what you're saying. And so, so the Racing and Gaming Commission is a board that we've established in the state of Nebraska to facilitate racing and gaming in the state of Nebraska.

TRENT LOOS: Correct.

J. CAVANAUGH: And are you-- I guess, would your approach to serving on that board be in some way informed by this belief that people are trying to eliminate private ownership of animals?

TRENT LOOS: That-- definitely the selection of asking me to be a part of that is that I understand animal care and I understand that, in many cases, what they're demanding-- I, I can give you an example that seems like it's not related, but it is related totally, if you have the time for me do that.

J. CAVANAUGH: Go for it.

TRENT LOOS: In 2008, I was asked to go to the state of California because California in 2008 had a proposition in front of their entire population, which-- on the ballot initiative, which was called Proposition 2. Proposition 2, inspired by the animal rights community, said that chickens needed to have more space in their cages. It didn't say how much more. It just said chickens need that much-- need to have more space in their cages. They overwhelmingly passed that. There's a lot of things involved in that that I'll just cut, cut to the, to the chase. Ultimately, what happened as a result of that was that now California says you have to have cage-free eggs. The cost of eggs in California last week was \$7.77 a dozen because of an, an unintended consequence of what happened in 2008. And now-- I don't probably need to tell anybody here who has been in the grocery store what's going on with the cost of eggs. And it all started in one situation in one state in California, which seems like it had nothing to do with Nebraska, but it's affecting all of us, because we had a bunch of people sitting in a cubicle thinking they could design an animal welfare program better than the people who actually own and depend on the chickens to do it. My role in the commission is to make sure that we keep the animal's best interest in mind with the people who are closest to the owners and the trainers and the people who have the most at stake if that horse is not in the proper condition. So as strange as it is, I believe that we can explain what's important to the future of horse racing through how much space a chicken has in a cage. The moral of the story is the expert in animal care is the person who is closest to the animal.

J. CAVANAUGH: OK. But the Racing and Gaming Commission does have the obligation to set up regulations for how we treat those animals.

TRENT LOOS: Correct.

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J. CAVANAUGH: OK. Even though the Racing and Gaming--

TRENT LOOS: But we don't necessarily need to comply with the federal law if we don't see that-- the HISA Act is, is optional at this point. And if we could see that it's not to the best interests of the horses or the tracks, there's no reason for us to tell them to do that. Again, the commission's role would be to acquire as much information as possible, which is why I spent four days last week in New Orleans at a national meeting about the impacts of this HISA Act if it were to go into place.

J. CAVANAUGH: So it hasn't gone into effect yet?

TRENT LOOS: Well, March 27 is the magical day.

J. CAVANAUGH: OK. But it has been passed by Congress and signed by the President?

TRENT LOOS: No.

J. CAVANAUGH: Oh, it hasn't?

TRENT LOOS: Well, yes. That's a true story. It, it was added twice. March of 2020, the HISA act was added-- excuse me. December of 2020, the omnibus bill, the HISA Act was added by Mitch McConnell as a last-minute detail with no funding whatsoever. The Fifth Circuit Court in Texas in September of last fall ruled that that was unconstitutional. As a result of that court ruling in the Fifth Circuit, Mitch McConnell once again attaches a HISA Act, changed one word and it came out in the omnibus bill, omnibus bill December 2022. That-- there was a ruling on that particular wording to come as constitutional by the Sixth Circuit Court just two weeks ago. So, basically, what's happening is we have attorneys angling at getting this in front of the Supreme Court, which we all know that will not be immediate. Best-case scenario in my mind would be two years. And what's the carnage going to be to the individuals, the industry and the people that have built horse racing to where it is? And the entire nation right now is looking to Nebraska to be the shining example of what could happen bringing horse racing to the forefront once again, building these communities they keep coming back to. That's my passion about-- horse racing stands. If you've been at Fonner Park and you see these parents, and you see the-- the people sitting in a glass suite are cheering and trying to give encouragement to a horse and rider that are never going to hear them. But we're at a time when we need

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something to turn to that we can look at as pure enjoyment and go to somewhere and teach kids about horse racing, about taking care of an animal. And that doesn't happen in Washington, D.C. It happens in Fonner Park. It happens in Lincoln. It happens in Omaha, happens in Hastings, wherever those tracks may be.

J. CAVANAUGH: Well, I think we can agree about that, at least. Thank you.

LOWE: All right. Thank you, Senator Cavanaugh. Are there any other questions?

J. CAVANAUGH: If nobody else has other questions, I got more.

LOWE: All right. Senator Cavanaugh.

J. CAVANAUGH: Is that all right? Thank you.

LOWE: It's going to be a long night.

J. CAVANAUGH: Thank you. Thank you, Chair.

TRENT LOOS: Where, where's his red light?

J. CAVANAUGH: Hey, I had--

TRENT LOOS: I'm just kidding. I welcome these questions, Senator.

J. CAVANAUGH: I get shut down plenty. Don't worry.

TRENT LOOS: Because I don't-- I mean, so many times the legend is bigger than the fact, and that, that's what I'm here for, is to make sure that everybody has every question answered that may be of, of a concern.

J. CAVANAUGH: Well, I guess I'll ask the one that I guess people have a concern. You've been-- had a previous record and conviction, right? You had a criminal conviction.

TRENT LOOS: I plead no contest to a misdemeanor for hauling a cow from the state of South Dakota to Custer County when-- in 2021-- or, excuse me-- 2001, when Kelli and I were living in South Dakota, we entered a partnership with a gentleman in Custer County, Nebraska.

J. CAVANAUGH: OK.

TRENT LOOS: And I hauled a cow to him. We did not sell the cow. It was a partnership cow. We were splitting the calf. I made a vital mistake. There's a brand law in this state. And when you haul a cow across state lines, you're supposed to get a brand inspection and have another document, a piece of paper that says you own this cow. Here's my exact thought-- and I'd be willing to say, every rancher has-- have done this throughout their entire life-- it's just one cow. What difference does it make? I hauled one cow to Custer County. Did not get a brand inspection. It came under scrutiny a year later. And on August the 21st, 2002, I plead no contest to a misdemeanor to that brand violation because I knew I did the wrong thing. And I could have beat it in court. I honestly believe that. And I remember the exact day because our middle daughter was born August 22, 2002. And I have to be honest with you: I just wanted to get this behind me and say, we screwed up. We did not have the proper apprecia-- wait a minute. Time out. I did not just implicate my wife in that situation. She was not involved. I screwed up. I did not get a brand paper. It's a mistake I've not made since.

J. CAVANAUGH: I appreciate, appreciate that. And thank you for that clarification. I guess my, my thought as it pertains to this, you know, there's some folks who, in the racing and gaming industry, if you have a criminal record, that can prevent you from getting a license and, and working in one of these facilities. I guess does that inform kind of your-- your experience inform that kind of approach towards issuing of these licenses or maybe how we restrict who can participate?

TRENT LOOS: If you are asking me, do I believe because I made a mistake and had paid the price that I might make a better commissioner, I would say absolutely. I think that's the value that I bring to the commission, is that I bring the everyday world experiences of what it's like to be a citizen of the state, to be a taxpayer, but also to be a livestock producer and a business owner. And making a mistake one day will haunt you forever whether you're running as lieutenant governor or sitting in front of a Senate commission hearing.

J. CAVANAUGH: Well, I appreciate that answer. Thank you.

LOWE: Thank you, Senator--

TRENT LOOS: Actually, I'm glad we didn't red light him. That one needed to come to the forefront.

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LOWE: I was hoping that would. So, thank you, Senator Cavanaugh. Are there any other questions? Mr. Loos, thank you for coming down and testifying today. We all enjoyed it. I've heard your voice on the radio. Can you tell me about your radio program or programs that you do?

TRENT LOOS: How, how late are these people going to be here?

LOWE: Shortened version.

TRENT LOOS: In 2001, I started Loos Tales, which is a daily look at the people and the places in rural America talking about food production as a means of national security. Today, Loos Tales is on the radio in 23 states, 100 radio stations, including Kearney, Nebraska. And I also do three other radio programs every day and two television programs and write a column once a week. I have about 3 million-- estimated 3 million United States' listening audience.

LOWE: And the topics of your programs, they're all about animals and agriculture, is that correct?

TRENT LOOS: The topics of my programs are about the lifestyles of the people who are involved in agriculture and why agriculture and energy are vitally important to our nation's domestic security.

LOWE: All right. Thank you very much. Seeing no other questions.

TRENT LOOS: Thank you, Senators.

LOWE: Thank you. Are there proponents?

LYNNE McNALLY: Hello.

LOWE: Hello.

LYNNE McNALLY: Hi, Chairman. Lynne McNally, L-y-n-n-e M-c-N-a-l-l-y, appearing on behalf of the Nebraska HBPA in support of Mr. Loos's appointment. He was appointed last fall and has attended and voted at every hearing since then. We do not always agree philosophically about the direction of certain issues, but I respect him very much and I think that he acts in the best interests of horse racing. We-- when we wrote the language for the initiatives that were on the ballot in 2020, we had the original five commissioners and we added two positions: one that has gaming experience and one that has horse racing experience. The original language said horse racing experience

and a member of the representative horsemen's group for the state. That was a problem because the representative horsemen's group also has an interest in two licenses in the state. So that language was changed to just an interest in horse racing. He is the representative that fills that seat for the interest in horse racing. Also, that position had to have been either a Democrat or Independent because there are three Repub-- four Republicans on the committee already. So you have to have the balance or it doesn't work. I will say that I have a key license. I also have a racing license. The key license is the highest level of individual license you can get, and it requires full disclosure of all offenses, misdemeanors or felonies. So it's sort of a joke at the racetrack each and every year when I, when I applied for my racing license, which I got this year. I have a misdemeanor conviction for an alcohol-related offense: minor in possession of alcohol in 1987. I am 54 years old and I have to list it every year. It's required. So that's, that's how deep of a dive they go in the various offenses that, that you have to comply with. As to HISA, the Nebraska HBPA is the plaintiff in two separate federal lawsuits: one in the Fifth Circuit, one in the Seventh Circuit. We were successful in both circuits. As Mr. Loos stated, the Sixth Circuit decided a different issue differently. The Nebraska Attorney General is also a party to those lawsuits on behalf of the Nebraska Racing and Gaming Commission. They have objected. This is a \$72 million unfunded mandate that the feds imposed in the omnibus COVID bill in December of 2020. That's how they got it through. They could not pass it on its own merits. The executive director of that, of that organization allegedly makes \$1.2 million, but no one will tell us for sure. A lot of problems with it. So if I can answer any questions.

LOWE: Thank you, Ms. McNally. Are there any questions? Seeing none.

LYNNE McNALLY: Thanks.

LOWE: Thank you very much. Are there other proponents? Seeing none. Opponents? Are there any opponents? Seeing none. Anybody in the neutral?

PATRICK PETERSON: Good afternoon, Senators. My name's Patrick Peterson. P-a-t-r-i-c-k P-e-t-e-r-s-o-n. And I'm testifying today on behalf of the Nebraska Freedom Coalition, which represents thousands of patriotic Nebraskans across the state. Appreciate Mr. Loos's testimony today. Appreciate him highlighting how important horse racing is in this state. Many times throughout his testimony, Mr. Loos was exclaiming how often and how long he has worked with previous

Governor Pete Ricketts. Now, I wasn't planning on testifying today, but I just thought it was so funny that one of the points he brought up was the fact that they worked on property taxes. Obviously, that's still a debilitating issue here in Nebraska, and to have worked with the Governor for six years on that and to not be in any better spot than I guess when they started is just quite interesting. Also want to present that a source of ours let us know that former Governor Ricketts appointed Loos to the board to be able to watch where the money is going. Our same source did the initial work for 30-- for 30x30. And unfortunately, at that time, our source made the mistake of cutting Mr. Loos in on that work. And after it was all said and done, Governor Ricketts-- it was, it was basically sold to him and he was able to take credit for that. The last thing I'd bring up from a couple of sources here in the Argus Leader in Sioux Falls, South Dakota. South Dakota rancher accused in Nebraska cattle fraud. Trent Loos in Norris, South Dakota was charged in Nebraska with selling cattle without a bill of sale and selling cattle without a brand inspection. Joe Kafka with the Associated Press also wrote a similar, similar article. And so-- again, just wanted to testify in a neutral capacity because I think it's funny how so many people who are associated with former Governor Pete Ricketts are always caught up in controversy in one way or another. We see that time and time again historically, and we're seeing it, we're seeing it play out today as well. So, thank you for your time.

LOWE: Thank you, Mr. Peterson. Are there any questions? Seeing none-- oh, wait. Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. And thank you, Mr. Peterson, for being here. So just-- I guess to clarify, you're, you are neutral-- so you're not opposing the appointment, but you do think he's too close to former Governor Ricketts, is that--

PATRICK PETERSON: I just wanted to present the facts as is. Again, I, I am neutral on, on the appointment, but I think it's important for people to have all of the information so that they can make those decisions for themselves.

J. CAVANAUGH: Thank you.

LOWE: All right. Anybody else? Seeing none. Thank you. Is there anyone else in the neutral? OK. Please fill out the green sheet. Anybody else in the neutral? Seeing none. Mr. Loos, thank you very much for coming and testifying today.

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TRENT LOOS: Thank you.

LOWE: We will now move on to LB375, and I will turn committee over to the Vice Chair, Senator Hughes.

HUGHES: We're going to drill you. All right. Welcome, Senator Lowe. We'll begin the hearing for LB375.

LOWE: Thank you, Vice Chair Hughes and the General Affairs Committee. My name is John Lowe. That's J-o-h-n L-o-w-e, and I am the Chairman of this committee. Our hear-- that's the wrong one. There we go. My name is John Lowe. That's J-o-h-n L-o-w-e, and I represent District 37, which was made up of Kearney, Gibbon and Shelton. LB375 would allow a bar, restaurant, craft brewery or microdistillery to buy up to five alcoholic items a week from a local retail store. Current law requires all purchases of beer, wine and liquor to happen directly from a wholesaler or distributor. The reason why I'm bringing this change is because I have heard from several business owners in and around Kearney and central Nebraska who have been unable to get certain products delivered to them from their contracted wholesaler or distributor. Now, we all know supply chain issues happen and especially since the beginning of the COVID-19 pandemic. The reason I believe we need to look at a change to this law has to do with the fact that the shortages for these bars and restaurants has less to do with the supply chain issues and more to do with the decisions being made. A bar in Kearney may not be able to get a delivery of Jack Daniels, but that same bar will go to his local grocery store that same day and see that bottle of Jack Daniels on the shelf, and they may see cases of it. This is a problem and causes a lot of frustration for small business owners. Now, I want to point out that not all of this should be put at the feet of the wholesale tier. Business, business decisions by the restaurant and bar play a part. Issues presented by COVID and all that came with it plays a part. This plays in it as well. But I do think it's important that we have this conversation today because there are bars and restaurants who struggle to get supplies they need to run their stores. And unfortunately, this appears prominent in central and western Nebraska. I realize that this bill will see a lot of opposition today, and I have had conversations with the individuals who have concerns about this bill. I do not expect this bill to make it out of General Affairs Committee in 2023, but I do want to have this conversation and ensure both of those in favor that opposed to this idea can get their thoughts on the record. And we will see what we can do to move this forward in the future, or at least find a path. With that, I'm happy to take any questions.

HUGHES: Thank you, Senator Lowe. Do we have any questions? Senator Holdcroft.

HOLDCROFT: Thank you, Vice Chair Hughes. Five items. Is there any limit to the quantity of each item that you can purchase?

LOWE: Well, that's kind of what we're here to discuss today. We're going to try to figure something out and-- because five items might mean five cans of beer, which really doesn't help a restaurant or bar out, but five cases of beer can get them through until delivery.

HOLDCROFT: OK. Thank you.

HUGHES: Other questions? All right. I'm going to assume you're going to stay for closing.

LOWE: I will try.

HUGHES: Perfect. All right. We'll have our first proponent, please.

KEN SCHILZ: Good afternoon, Vice Chair Hughes and members of the General Affairs Committee. My name is Ken Schilz, K-e-n S-c-h-i-l-z. I'm here today as a registered lobbyist for the Nebraska Licensed Beverage Association, or NLBA, in support of LB375. NLBA is a nonprofit trade association representing liquor retailers across the state. Our members are small businesses who provide jobs in hundreds of communities throughout Nebraska, contribute to the tax roles and are good stewards and community leaders. Like any retail business, our members strive to meet the demands of their customers. As we strive to maintain and grow our rural communities, bars and restaurants are an important amenity. As you all know, Nebraska utilizes a three-tier system to connect retailers with manufacturers' products. Unfortunately, worker shortages, consolidation and other factors have caused some disruptions in the typical three-tier supply chain. As wholesalers and distributors have consolidated, many retailers are further away from other tiers than ever before. LB375 would provide flexibility to the bars and restaurants in the far-flung areas of our state in the event they cannot get access to products on short notice. The amount of liquor that can be purchased by a bar or restaurant from an on-premises retailer, like a liquor or grocery store, are small and should not undermine the relationship between retailers, wholesalers and distributors. In addition, LB375 maintains the integrity of the three-tier system while providing the flexibility that is particularly important in Nebraska's most rural areas. At a time when many local

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bars and restaurants have closed or been strained by the COVID-19 pandemic, LB375 is a step the Legislature can take to help our small businesses when they're in a pinch. For these reasons, NLBA supports LB375 and asks you to advance this measure in support of Nebraska's small businesses. Thank you for the opportunity to testify. And I'll attempt to answer any questions you might have.

HUGHES: Thank you, Mr. Schilz. Questions? Mr.-- or, Senator Holdcroft.

HOLDCROFT: Thank you, Vice Chair Hughes. So you're a wholesaler, right?

KEN SCHILZ: No. We, we're, we're basically the bar owners.

HOLDCROFT: Oh, you're the bar owners. OK.

KEN SCHILZ: So we'd be, so we'd be retail. Yeah.

HOLDCROFT: So what did you envision as far as quantity--

KEN SCHILZ: You know, that's, that's, that's a good question. And that was one of the, that was one of the things as I was reading through the bill and looking at it, I was like, you know, we're, we're playing pretty fast and loose with stuff. So I think, I think there needs to be a real, you know, focus put on questions such as that so that we can find out exactly what is-- what's real, what, what we can do. But I, I don't have a, I don't have an exact number down.

HOLDCROFT: OK.

KEN SCHILZ: I'd be guessing if I tried to.

HOLDCROFT: All right. Thank you very much.

KEN SCHILZ: Yeah.

HUGHES: Other questions? Senator Cavanaugh, please.

J. CAVANAUGH: Thank you, Vice Chair Hughes. And thanks for being here, Mr. Schilz.

KEN SCHILZ: Sure.

J. CAVANAUGH: So I, I'm trying to conceive of the problem here, I guess. So we're talking about bars. They run out of Jack Daniels, and

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they need-- they want to run out to the convenience store and buy another 750 or something like that--

KEN SCHILZ: Correct.

J. CAVANAUGH: --on, like, a busy night. Is that-- so-- I-- if that's the problem we're trying to address, it seems like that's an emergency situation or whatever, you know, trying-- in a probably more remote community to keep them afloat for a week or so.

KEN SCHILZ: Um-hum.

J. CAVANAUGH: Couldn't there be a constrain on this? I mean, five a week? I mean, that's-- I-- well, I don't know. I'm not going to do the math. But that could be over 52 weeks. I mean, doesn't-- isn't that just in form to say, well, we should just put it in a different order? I understand that the order doesn't come maybe not weekly to everywhere, but.

KEN SCHILZ: Yeah, I would, I would, I wouldn't say that you're wrong, necessarily. And I think that's part of what, what needs to be deci-- discussed to find out, OK. What, what are we doing if we're talking about an emergency, and what does that actually mean? And I, I would suppose that's depending on where you're at. But, but coming from just my experience of outside of the NLBA-- I mean, out in rural Nebraska, there's times where, you know, you get to a weekend and, all of a sudden, you know, your establishment is where the party decides to be and you go through all your weekend stuff in one day and it's, it's Friday night and you can't get another shipment over the weekend, so. But, but that's, that's a whole other issue. What we're talking about here is exactly what you said. In my mind, is it's an emergency type of thing where you need one or two, one or two bottles maybe to get you through the end of the night and, and move on from there.

J. CAVANAUGH: So would there-- I mean, I guess do you have a suggestion on how to address that, say you can do it--

KEN SCHILZ: We would--

J. CAVANAUGH: once a-- five bottles or whatever a week, but no more than two times a year or something.

KEN SCHILZ: I would, I would be happy to take that back to my membership and, and see what their, what their thoughts are. We'd be

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happy to work with the committee and, and anybody else on the issue to come to that, come to that number.

J. CAVANAUGH: All right. Thank you.

KEN SCHILZ: Yep.

HUGHES: Other questions? All right. Thank you for your testimony.

KEN SCHILZ: Thank you.

HUGHES: Next proponent.

RICH OTTO: Vice Chair Hughes, members of the General Affairs Committee. My name is Rich Otto, R-i-c-h O-t-t-o. I appear before you today in support of LB375 on behalf of the Nebraska Hospitality Association. Thank you to Senator Lowe for introducing this legislation. The Senator and Mr. Schilz have done an excellent job of kind of outlaying the bill and the five items. But I guess let's go into the, the need for the problem. I guess COVID exposed supply chain issues and how the current system with distributors can be problematic for the smallest of my members, bars and restaurants, typically, that is. So what we found during this-- the COVID-19 pandemic is that we had aluminum shortages, glass shortages, you name it. There were shortages and supply chain shortages. And the distributors did get less. They had very small supply at times. Well, unfortunately, the large orders went to standing orders with grocery stores and retailers that are being considered essentials. Bars are being closed down. OK. We filled all our orders to the grocery store. We can't fill this small bar. You want to open back up? Sorry, we're out. And so that's where the bar owners are seeing, OK. There's plenty of supply in the grocery stores. And that was correct. But no fault of their own, the distributors sold all of it to the other retailers that, that wanted it. So that, that's one of the concerns going forward, that when there is a shortage, even if it's not permanent or if it's just-- to the consumer, it doesn't look like there's a shortage, restaurants are going to still be at the bottom of the tier of the distributors as far as if we have limited supply, it's going to go to the grocery stores first. So we see that-- so beer-- going through the distributors. We do have beer wholesalers throughout the state. So, typically, beer gets distributed a little bit better. If I'm talking-- my member in Scottsbluff, they have a beer wholesaler in Scottsbluff. Liquor and wine is not the same. All liquor and wine wholesalers are located in Omaha. So, luckily for the bars in western Nebraska, we have great

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transport companies that we can go through that are willing to go to Omaha, transport the, the alcohol and wine back to these western Nebraska venues. Well, for Scottsbluff, say, typically, I believe you put your order in by first thing Friday, you get it Wednesday. So if you ran out Friday night or Saturday, you're looking at 10 days you're going to go before you get that if the distributor does have it, because you put your order in Wednesday-- or, the next Friday, get it the next Wednesday. So when we're looking at framing this going forward, a, a time frame can-- maybe could be an order. But also if, if the bar can say that the distributor is still not providing me that product, we think the leniency needs to be made where we can get it from another, another retailer if we continue to see not-- our orders are not being filled. So that quickly sums up kind of what we saw in COVID. And I'm happy to answer any questions you may have.

HUGHES: Thank you, Mr. Otto. Questions for-- Senator Raybould.

RAYBOULD: Yes. Thank you, Mr. Otto. So I guess-- I kind of came in because I was introducing another bill, but-- so the reason you would need the additional product-- you would work with another retailer. But are you trying to get it at a wholesale price? Is that it? Because you're intending--

RICH OTTO: No, and that's--

RAYBOULD: --to resell it, or am I missing--

RICH OTTO: Well, you bring up a great point, and I, I think that's probably one of the top concerns of the distributors is pricing. And as you know, being in the grocery business, sometimes we can see grocers that can get a product and then actually use beer or alcohol as a loss leader. That is not our goal, is to undercut the distributor on the pricing. It's just to get the product. So I think pricing potentially needs to be looked at when the committee does it: duration or quantity potentially. And again, we are willing to work with all stakeholders, the committee, Senator Lowe. We realize that a lot of thought needs to go into how this flexibility can be built in, but we're also optimistic that flexibility can be worked in for the small business. I mean, we've done it for craft breweries. We've done it for farm wineries. We're going to do it for liquor distributors, microdistilleries this year. So we've-- on the distribution level, we have put flexibility in for everybody but the small bar and restaurant.

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RAYBOULD: So I--

HUGHES: Go ahead.

RAYBOULD: I guess I'm still struggling with it because, as a grocer, I see, OK. We get restaurateurs coming in because they ran out of romaine lettuce or they've run out of, of product. They run to the grocery store, they get it and they get out. So there's not any type of issue with that. So is that what you're envisioning for--

RICH OTTO: That's not allowed for beer or alcohol.

RAYBOULD: It's not allowed for beer and alcohol?

RICH OTTO: Against the law, so.

RAYBOULD: OK.

RICH OTTO: They can do it for their food products, not for beer or alcohol.

RAYBOULD: Thank you for clarifying that.

HUGHES: Other questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chair. And thanks for being here, Mr. Otto. So, I have-- the scenario you laid out is just a little bit different than the one that Mr. Schilz laid out. But it makes me, I guess, think about this a different way. What about a-- and maybe Mr. Rupe will bang his head against the wall when I say this, but what about the, the-- an affirmative, like, special dispensation where you can call the Liquor Control Commission and say, hey, this is the situation. We need to be able to get a waiver to go buy retail right now because our wholesale is falling through in the way that you kind of laid out. I mean, is that maybe-- does that address-- would something along those--

RICH OTTO: Oh, absolutely.

J. CAVANAUGH: Maybe logistically, it would be very difficult, right?

RICH OTTO: We see distributors with all kinds of lists. They keep lists of retailers for everything. We would also like to see them to keep a list of products they're on short supply of so that the distributor could be upfront with the commission and say, we realize

that this product's in short supply. We wouldn't mind you adding it to this waiver list. So then that product could be eligible due to the distributor wanting their customers to be able to carry it but knowing they can't fulfill all the orders or in a, in a timely manner or with the logistics of their distribution. They may not be able to get to all those smaller guys. So I-- something of that nature makes perfect sense to me.

J. CAVANAUGH: Um-hum. Thank you.

HUGHES: Other questions? I have one question and-- I don't know. This is just a curiosity question now. So if you own a bar and, I don't know, some weird, obscure, whatever, raspberry vodka or whatever, you use one-fourth of a bottle the whole year. When you buy it from your distributor in Omaha, do you have to buy a case of it or can you buy it by the bottle?

RICH OTTO: You're allowed to buy by the bottle. So, typically, if you put in a large order, it's a flat rate that the transportation company charges you for your order, or they have a fee. The problem comes when you are trying to fill one or two bottles. Lincoln bars and Omaha ones can go directly to the distributor in Omaha--

HUGHES: And pick it up.

RICH OTTO: --and pick it up themselves.

HUGHES: Right.

RICH OTTO: So that's typically where western Nebraska ones wait until their next order and they're out for 10 days because they don't want to--

HUGHES: Pay all the shipping for one thing.

RICH OTTO: Exactly. And even-- the time may be the same by the time they can get it from-- typically, there's less. Lincoln, we're lucky that the transport company typically goes almost daily. And so if you had one, two-- one or two things, they could add it to the order. I believe in western Nebraska, it's typically weekly.

HUGHES: OK. Thank you. All right. Thanks for your time. Thanks for coming. Next proponent.

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SCOTT HATFIELD: Thank you, members of the committee. My name is Scott Hatfield, S-c-o-t-t H-a-t-f-i-e-l-d, and I own Duffy's Tavern here in Lincoln, and I'm here to speak in favor of LB375. I will not go into all of the failings of the three-tiered system today for all of our benefit. I'm just here to talk about LB375, but this is a really simple thing. All that we're-- all that really is happening in LB375 is giving bar owners the ability to buy small amounts of product when we're out of it. Right now, for example, if we, you know, bought our product and we were set up for the week and we got to Wednesday and we had a big event and we ran out of, say, Jack Daniels, the only way we can get Jack Daniels is to order it from our distributor in Omaha. And we can wait until our big order. We could order one bottle. I could drive up and pick it up, which effectively turns the cost of that bottle of Jack Daniels into a really expensive bottle. But the point is, is that we don't have the ability when we run out of product just to pop in and grab something. And that would be extremely helpful. Because the way that it works in Nebraska is that our distributors do sort of what they want. We're subjected-- we're subject to a monopoly-- a monopolistic system. And if our distributors don't want to play ball or they don't want to help us, they don't have to. In fact, the distributors keep a list of bars that have not paid them, and then they share that list with each other, and then they all collude and decide not to sell product to any of the bars that are over 30 days late. And that's fine. But it's collusion under the umbrella of a monopoly. And I don't think that's really good for business in any way. So what I would ask is just to make this simple gesture, to allow bars to buy small amounts of product when they run out of it from a liquor store, perhaps going to Russ's or going to Super Saver or going to Hy-Vee and picking up one or two bottles so that you are not out of the product for the night. And I could go on with stories for hours-- for days, in fact-- about the distribution system and about our distributors and about how it works. But today is not the day for that. All we're asking you to do is enable us to buy product from other people who've already actually bought it from the distributors, by the way. I mean, it's not like the distributors are missing out on this. So that's all I have. I hope you will vote in favor of this.

HUGHES: All right.

SCOTT HATFIELD: Yeah. Any questions?

HUGHES: Thank you, Mr. Hatfield.

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SCOTT HATFIELD: Thank you.

HUGHES: Questions?

SCOTT HATFIELD: Oh. Yes.

HUGHES: Senator Holdcroft.

HOLDCROFT: Thank you, Vice Chair Hughes. And you may not know the answer to this--

SCOTT HATFIELD: I'm sure I don't.

HOLDCROFT: --but--

SCOTT HATFIELD: I'll give it a shot.

HOLDCROFT: --any other states around, around us who have similar laws?

SCOTT HATFIELD: You know, I'm not familiar with the laws in other states. My hunch is that, my hunch is that it's similar in a lot of places, but I don't know. I'm not familiar with that.

HOLDCROFT: OK. Thank you.

SCOTT HATFIELD: Um-hum.

HUGHES: Other questions for Mr. Hatfield? All right. Thank you--

SCOTT HATFIELD: Thank you.

HUGHES: --for coming in. Next proponent.

CATHARINE HARVEY: Good afternoon, everyone. My name is Catharine Harvey. That's C-a-t-h-a-r-i-n-e. My last name is H-a-r-v-e-y. I think what-- all we're trying to do here is, like-- the biggest example that I can give-- let me pull out my notes here real quickly. Pardon me. Well, it was just a couple weeks ago with the Blake Shelton concert that happened. We got a foot of snow and our distributor stopped running for that day. So I'm trying to talk to my distributor and say, hey, man. Like, I'm the food and beverage director here at the Courtyard by Marriott, just a block away from Pinnacle Bank Arena. And they are no longer doing deliveries for that day. We were expecting a full hotel with multiple people coming in and out for the event going on, and I have no way to get alcohol. So I am, I'm trying to talk to the distributors and be like, hey, I, I can run out to you folks.

Like, I don't have a problem bringing the SUV or loading up the, the van, but. And they unfortunately left for the day. So there was no way for me to get the alcohol for the concert happening. So we-- luckily, I was able to get it from one of my distributors. But a block away from Pinnacle Bank Arena, we didn't have any Busch Light for a country concert. So it's just those little instances. And it wouldn't be an everyday occurrence by any means, but it would be a, oh, my gosh. We had a foot of snow. I need to, I need to go get a couple cases of beer or a couple-- little, little bits here and there to help me get through. And another circumstance for us is that we are on a very, very tight spec that we have to carry certain items for-- to have our brand's standard. And through these past two, three years, a lot of the wine has not been able to get a hold of. So it's a lot of my distributors saying, hey, I have product B instead of product A. It's still a Pinot Noir, but, unfortunately, if Marriott were to come by and audit us, I would get a strike because I do not have the exact bottle that we are needing. So just, just those little bitty scenarios that we just need a little bit of help then. That's what we're asking for. So I think that's all I have if anyone has any questions.

HUGHES: OK. Thank you for your testimony.

CATHARINE HARVEY: Yes.

HUGHES: That was a good example. Questions from anyone? You got off easy.

CATHARINE HARVEY: Well, hey.

HUGHES: Thank you.

CATHARINE HARVEY: Thank you for letting me have that time.

HUGHES: Absolutely. Next proponent.

CINDY CHATT: Hello. My name is Cindy Chatt, C-i-n-d-y C-h-a-t-t. And, actually, I'm really looking forward to the opportunity to talk about those, and so I appreciate all of your time. I came to testify for another bill, and this came up, and so I felt the need to raise my hand and talk a little bit about it. I own a small bar in Tekamah, Nebraska, and it is-- I can, I can be-- a firsthand example of that: it can be very difficult to get alcohol at certain occasions in the, you know, in a rural area like that. We're 45 minutes to an hour outside of Omaha. All of my orders have to be in by Wednesday morning at the latest. And, you know, as others had said, if you run out of

something on Wednesday night or even Thursday night, you can't get anything until the following Thursday. So it's very difficult, especially when you're outside of the area, to fill, fulfill those needs for a weekend or for your key times, especially when your orders have to go in early. So-- and I-- and-- this is-- my-- I work with several different distributors. We are-- most of-- almost all of them are inside sales, so we don't actually see a rep. I see, I see about one rep a week. And if that's-- it's based kind of on his schedules and if I'm around or not. So that makes it difficult. Some of my-- like, my big distributors have gone down from one order a week to every other week, which makes that a little bit harder too. So we're trying really hard in the rural areas to, like, to work with distributors and, and make this-- and make it work, but it's getting harder and harder for us to keep the product that we need to keep our restaurants and bars going on a weekly basis. I didn't-- I just appreciate that this conversation is happening because I-- even if it can't be fixed right now, hopefully it's something that keeps going and we can fix it in the, in the days and years to come.

HUGHES: All right. Thanks for coming in, Ms. Chatt. Hold on. Is there any questions? Yes, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chair. And thank you for being here, Ms. Chatt. What's the name of your bar?

CINDY CHATT: Chatterbox Brews.

J. CAVANAUGH: Chatterbox--

HUGHES: Wow. That's a good name.

J. CAVANAUGH: That's a great name. So when you go from two weeks-- or, from one week to two weeks of deliveries, how do you address that storagewise?

CINDY CHATT: Yeah. I mean, it's, it's difficult. I don't have a lot of storage where I'm at. And in that particular case, it was-- I didn't necessarily need an order and they said-- and they didn't-- and I didn't get told ahead of time. It was, oh, we're cutting you back from one week to two-- from every week to two weeks. And then it was, oh, you have to order for the next two weeks today, which is, which is hard. And we don't have a lot of space. And you're, you're guessing for two weeks of sales in-- at one time. So yeah, it's a problem on lots of fronts, to be honest.

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J. CAVANAUGH: So I guess are you finding then that that causes you to-- I mean, it's harder to predict, so then you have more shortages by the end of the two weeks kind of thing?

CINDY CHATT: Yeah. It-- I mean, it is a problem, for sure.

J. CAVANAUGH: Thanks.

CINDY CHATT: Yeah.

HUGHES: Other questions? All right. Thank you. Next proponent.

VANESSA SILKE: Good afternoon, members of the committee. My name is Vanessa Silke, V-a-n-e-s-s-a S-i-l-k-e. I'm the attorney and registered lobbyist for the Nebraska Craft Brewers Guild. I've got an example here, which is why I have my phone up, from one of our about 70 members across the state of Nebraska. Many of them are here today to testify on LB403 and LB404. And they-- actually, those issues dovetail into why we support LB375 and why we're so thankful that Senator Lowe and the retail groups are here to tell you why flexibility is necessary. My client in particular has this from both sides. One example I have from Paul, who's the owner of Pals Brewing Company in North Platte. His example was just last week. Their distributor just failed to, to send out three cases of red wine. So they were out of cabernet for an entire week. One thing that's really important for my members in addition to bars and restaurants is many of them have satellite locations and retail licenses. And so this issue is just as important for them, particularly in outstate Nebraska in smaller bars and breweries that I represent. In addition, this also impacts and provides some flexibility for my clients from the production side because they're getting these calls from retailers saying, the distributor says we can't get your beer, and yet they're producing that beer and they have all those brands available. And sometimes it's a bar or a grocery store across the street. And so you're going to hear more about that later. But I wanted to make the record of-- thanks to Senator Lowe and to the committee. We look forward to continuing to work with you to find ways that we can be flexible with the Liquor Control Act so that we can still protect public health and safety and still accomplish tax collection goals, but really accomplish, you know, a purpose for consumers to get what they want when they hope to get it at their local establishments. So with that, I'm happy to answer any questions that you might have.

HUGHES: All right. Thank you, Ms. Silke. Questions? Nope. All righty.

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VANESSA SILKE: Thank you.

HUGHES: Thank you. Other proponents?

HOBERT RUPE: Thank you, Vice Chairman Hughes, members of the General Affairs Committee. My name is Hobert Rupe, H-o-b-e-r-t R-u-p-e. I'm the executive director of the Nebraska Liquor Control Commission. I really appreciate the Senate for bringing this bill. You would not be, you would not be-- you would be surprised at the amount of complaints we were getting in about different supply chain problems, especially at different times, especially during the height of the pandemic. And it actually has-- they've decreased, but they've not gone away. And the main issue that, that we came into is-- you have to remember: legally, a retailer has to buy from a wholesaler. If one of these investigators goes in and they find product that was not produced from a wholesaler, they will be cited by the commission. They will generally be suspended for a certain amount of time and they have to pay a fine. Sometimes it's easy, you know. If you walk in and there's, you know, 175 bottles in there and a funnel, you know that's shenanigans we don't want to encourage under this act. With what we-- we were getting complaints were, a lot of times, your retail establishment, they were only getting 80, 85 percent of their orders filled because the supply chain was just so bad. And so if you've got this one person who is going-- who only drinks Captain Morgan and he and three of his buddies are coming in and you don't have any Captain Morgan, you're going to go down next door. You're going to go buy a 750 at the grocery store, at the, at the Wal-Mart, and, and hope to God that one of our few investigators doesn't come in during that time. So we very much support the concept of trying to have a way to do this, but we have to be very careful how we're going to do it because-- also, people will buy from nonwholesalers in a way to circumvent the law. One of the biggest [INAUDIBLE] issues we had was in Cass County a few years ago. A bar was in debt to all the wholesalers, couldn't get any credit, couldn't [INAUDIBLE] anything, and yet we found \$12,000 from Sam's Club of Lake Manawa that they had gone over and bought all their-- they were buying all their alcohol at Lake Manawa in Iowa, which had the compounding problem of not only were they avoiding the normal three-tiered system, they're also avoiding the state tax. You know, the, the Iowa tax got paid, but the Nebraska tax never got paid. So we always have to be very cognizant of, however we do this, mechanically, that there's going to be a tracking mechanism and it's going to be limited quantities and go forward. So one of the [INAUDIBLE] suggestions we have right now is, especially given what we're seeing-- you know, I don't think this bill

is goes much forward. And I know-- you know, having you guys come in on summer vacation is never a good idea, but this might be a perfect bill to actually do a, a legitimate interim study regarding to look at how to do it, how to, to address these concerns, where you'll be able to spend a whole day rather than shoehorning it in with a whole bunch of other bills, where you can get the people who actually deal with the issues coming in, in front of you, talking about it. You can have the regulators onboard and say how we're going to be able to make sure we regulate, make sure that taxes are paid, make sure that public health, safety and welfare is maintained. And so, you know, at the risk of, you know, putting more work on an already burdened bunch of senators, this might be one that might be a very good interim study candidate to look at, especially given the fact of how the timing of this session is going. And I see I'm into the red light now. And so I would be happy to answer any questions.

HUGHES: All right. Questions for Mr. Rupe? Go ahead, Senator Cavanaugh.

J. CAVANAUGH: Thank you. Thank you, Vice Chair. Thanks for being here, Mr. Rupe. So my question earlier about having-- rather than just allowing five purchases a week, having some sort of mechanism by which they could call your office and say, hey, we're out of this. Can we go buy it?

HOBERT RUPE: You know, the, the problem with that is going to be you're going to find out you're out of it at 9:00 on a Friday night. And, you know, there's nobody in the office at that point in time. But that's one of the things we could discuss, especially as we're going forward with the new computer reporting system where they might be able to generate a report, saying, hey, we bought this, and you know, how they got it. You know, our, our theory would be there would have to be some report that would have to go by that would be signed by both people to show that it was a retail-to-retail transaction. And we can, we can create forms all the time, and we would have it in an electronic form. So that's one of the things I think we should really discuss as we're going forward how to do that. Because really what you want to do is you don't want to circumvent the wholetail-- the wholesale system, but you obviously want to make sure that-- especially with Nebraska tax-paid product there's a way that if, oh, crap, I should have ordered three more bottles of Cabernet Sauvignon. I need to get those. And so-- I, I'm not-- I mean, if they call during the business day, during the week, that would work. But unfortunately, a lot-- I mean, one thing I learned very quickly in this, that my work

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hours and the work hours of the, of the retail industry are not the same.

HUGHES: Other questions? So I have, I have one. I'm just thinking through. So if, if I-- I'm just-- like, what would make-- who would abuse this, right? Or how could it get abused? And the-- is it-- it'd be more just convenience, right? Because you're not going to save money. Because if I am a bar owner and I go buy my bottle of Captain or whatever at, at the grocery store, I'm paying a whole-- a retail price, not a wholesale price. So it-- that bottle, I'm assuming, would have cost me more than if I would have got it from the distributor in Omaha.

HOBERT RUPE: More than likely it may have, you know. You heard earlier somebody will use loss leaders, these products as loss leaders.

HUGHES: OK. Yeah. It's on sale there, so I might-- that would be the in--

HOBERT RUPE: On sale.

HUGHES: --that would be maybe--

HOBERT RUPE: And also, as we had earlier, you know, sometimes you'll have channel pricing. So let's use-- I mean, they're one of the biggest-- let's use Sam's--

HUGHES: I do know [INAUDIBLE].

HOBERT RUPE: Let's use Sam's Club as an example. All right?

HUGHES: Yep.

HOBERT RUPE: Because oftentimes-- a lot of times, where you see people buying from a, from a nonwholesaler, it'll be, like, Sam's Club because they're going in there, they're buying their big thing of nacho cheese, the chips, everything else [INAUDIBLE] so they're buying some bottles there. Because of the amount, they're generally a quantity discount a lot of times with the alcohol products. And so they're buying, they're buying alcohol-- some, you know. The, the--

HUGHES: So sometimes Sam's Club is cheaper than a wholesale price that I can purchase from.

HOBERT RUPE: It, it might be dependent upon the product, dependent upon what the sale is. The problem we also run into is most of your retail accounts will get their-- especially their liquor products-- in 750s, you know, the normal bottle, you know, because most of your speed racks. You know, the bar, your, your rack down there for your [INAUDIBLE] rack. It's a 750, you know. So, oftentimes, the better deal is actually buying the 175, which then causes a problem. Because then what they'll do is they'll take that 175 and they'll refill their 750 with it. They'll, they'll empty out a bottle--

HUGHES: And why can't you do that?

HOBERT RUPE: It's a horrible sanitation problem, for one.

HUGHES: OK.

HOBERT RUPE: And the other problem is, oftentimes, what you'll do is you'll see brand substitution for that. Somebody will take Sailor Jerry and they'll pour it into a bottle of Captain Morgan--

HUGHES: Right.

HOBERT RUPE: --which is a cheaper product and it's-- they're similar products, but it's, it's a brand substitution. So you've got a sort of a fraud there. The two things we always tell our-- to our investigators to look for, look for-- look for 175s and funnels. Because if you see those at a store, you probably got refilling. And we're mostly worried about it from a sanitation problem and also from brand registration. So, you know, there's-- you know. So-- because-- so if you're just looking at price, your price on a 175 per ounce is going to be better than a 750.

HUGHES: Yeah.

HOBERT RUPE: So what we want to do is have a method that if I'm down through-- I need to go down to my local liquor store and get four bottles to get me through the weekend, we want to have a mechanism for that. That's really what we're supporting in this regard. And that's the reason why, you know-- however we would do it, you know. You know, that's why we support the concept. And, and we'd rather have it regulated. That way, we know--

HUGHES: So it's not-- just a matter-- we've just got to somehow track it. And then if somebody's abusing it, clearly, it's going to show because they're--

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HOBERT RUPE: Oh, yeah.

HUGHES: --doing it every week.

HOBERT RUPE: Yeah. There will be a process. Yeah.

HUGHES: OK.

HOBERT RUPE: Yeah. So long as there's a, a paper trail, we can usually, you know, figure out--

HUGHES: Right.

HOBERT RUPE: --where it's at. Yeah.

HUGHES: OK. Any other questions? Nope. Thank you.

HOBERT RUPE: Thank you.

HUGHES: Other proponents? Seeing none. Opponents? Absolutely.

JIM MULLEN: Good afternoon, Vice Chair Hughes and members of the General Affairs Committee. My name is Jim Mullen. It's J-i-m M-u-l-l-e-n. I'm senior vice president and general manager of Southern Glazer's Wine and Spirits, and I'm here on behalf of Southern Glazer's. Just appreciate your time today in letting me able to come down. As you heard today, it's no surprise that supply chain was a great challenge during the pandemic. I think that this legislation in LB375 would have been a great idea during the pandemic, similar to what we saw with many of the executive orders to help get through the pandemic. But supply chain has improved greatly since then. I want to give you a few stacks-- or, a few stats and statistics. At the lowest of material fill rate during the pandemic, Southern Glazer's Wine and Spirits had an 88 percent fulfillment rate in August of '20. In April of '21, it was our lowest fulfillment rate, at 91 percent. And year to date in '23, we're at 97.4 percent. So we're seeing supply chain improved dramatically. We're dealing with the industry that each wholesaler is selling a little over a million cases a year, stocking 250,000 to 300,000 cases, 6,000 to 7,000 SKUs. On hand at any time, it would be at 97.4 percent fulfillment rate is, is, is showing some strong statistics there. You heard today that, many times, it's on-premise accounts bars and restaurants that might be out of stock of an item. They go across the street to whatever that store might be: a Walmart, a Russ's, a Super Saver, a Costco. And while they didn't get their bottle of Jack Daniels or their bottle of Captain Morgan, they

see a pallet of the same item on sale there. Those are usually different sizes. It's very rare that a wholesaler is out of all seven SKUs of a, of a product. So we have many on-premise accounts that say, if you're out of this, please sub that. We do believe that some of these shortages could be a planning issue, which we are very happy to help with. We've got in-person sales consultants calling these accounts. We have inside sales. We-- our company nationally spent over \$100 million developing SG Proof, which is an e-commerce site where we actually have an app that helps track invoices. You can see if things are in-stock or out-of-stock, along with pricing and so forth. So, currently, supply chain has improved dramatically. We've also put a DWS, which is a direct warehouse store, in our facility that is open some different hours than our typical warehouse hours. So we can actually have customers come and shop at our facility. Again, trying to make it as easy as possible to get those products. Where I see this could be a challenge-- five purchases per week, whatever that might look like, 52 weeks per year, I would think this would have to carry a large fiscal note to help the regulators monitor and regulate this. With about 2,500 on-premise accounts in the state, you're looking at 12,500 instances per week, up to 650,000 instances per year. There's another issue that comes up, and that's the credit law. When a person cannot pay their bills and they go shop at other places, they're motivated to break the law. And so when people are motivated to break the law, we see service to minors, service after hours, drugs, human trafficking, things like that. So, again, we are in opposition of this.

HUGHES: All right.

JIM MULLEN: Thank you.

HUGHES: Thank you for coming in. Do we have questions for Mr. Mullen? Senator Cavanaugh.

JIM MULLEN: Yes, sir.

J. CAVANAUGH: Thank you, Vice Chair. Thank you for being here, Mr. Mullen. I think the fiscal note was \$500 if I remember right. I don't know what that was covering specifically. But I guess, you know, you kind of got to the problems at the end there. But I, I'm having trouble understanding-- how is this a problem for you guys? It looks like you-- sounds like you have a very robust system to allow every possibility from people to get the product they need. Why can't we find some sort of emergency valve is kind of what this sounds like?

JIM MULLEN: Sure. I think the example was lettuce. If a, if a restaurant's out of stock of lettuce, they can run across the street to purchase from, you know, a grocery store. I think-- alcohol, tobacco and firearms, they're not lettuce. They're, they're regulated much differently. We have a system in place now. I think we have a very stable market. I think our regulator, the Nebraska Liquor Control Commission, does a nice job regulating it currently. So I think opening this up to anything further would, would prove otherwise.

J. CAVANAUGH: I guess-- I mean, to your point about creating a gray market or a black market encourages other criminal activity. So I guess to me that almost argues for doing something like this because if people are going to get that desperate to make sure they fill it, shouldn't we create a, a structure in which they can do it out in the open and clearly and aren't going to be in trouble? Because under the scenario you're laying out, somebody goes across the street and they buy, you know, a 175 or whatever-- and they-- they're going to have to hide that. And so then, of course, they're thinking, oh, we got to hide this. We may as well be hiding--

JIM MULLEN: Sure.

J. CAVANAUGH: --other things or whatever. But if we create a structure where they say, we're, we're in a pinch. We can go and do this and be-- still be above board and within the system. That is not incentivizing them to get into the gray market. They're just still operating within the regular course of business. Am I--

JIM MULLEN: Sure. And we can currently sell them that 175 or 750 if we were out of stock of leaders.

J. CAVANAUGH: And I get that, but I'm talking about-- I mean-- and maybe this is-- as Senator Lowe pointed out, this is a conversation. Is there a system under which that is the appropriate emergency valve situation? You know, it's kind of what, what Mr. Otto laid out there or Mr. Schulz, you know, the situation where it's a one-off, where it's a-- you had a run on a weekend where you had some event and you misordered, basically, and you can at least backfill five of those items to help you get there. And-- isn't there a method by which you could say-- I mean, my suggestion-- Mr. Rupe, I'm sure, accurately pointed out that my suggestion was a bad one, but something along those lines where you can have, you know, maybe not five items a week, but, like, you can do it five items a year or 10 items a year over two different weeks to allow for that emergency situation.

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JIM MULLEN: So my concern is it's illegal now and it is happening. So if we were to increase it even further, I would worry that would breed further challenges.

J. CAVANAUGH: OK. Thank you.

HUGHES: Other questions for Mr. Mullen? So I'll have one. So you said right now your year to date fulfillment is 97.4 percent, I think.

JIM MULLEN: Correct.

HUGHES: So what about that 3 percent?

JIM MULLEN: So it's going to be hard to be in-stock--

HUGHES: Right.

JIM MULLEN: --100 percent all the time.

HUGHES: So why-- like, would there be something that you would be-- well, let me ask this. Are you based in-- are you the one in Omaha then?

JIM MULLEN: We are one--

HUGHES: You're the one that's for--

JIM MULLEN: We are one of them, the wholesalers--

HUGHES: --one of the ones here in Omaha.

JIM MULLEN: --based in Omaha. Correct.

HUGHES: So, being a little bit rural, I think of the rural people. They want one thing to draw-- and you say you've got your off-hours, little ministore in there. Well, I'm in Sidney. I'm not driving Omaha to buy my one bottle of whatever. So is there not-- I mean, is there just nothing that if we did an interim study this summer or whatever that would be agreeable to? Because here, Mr. Rupe, you know, coming from the Nebraska Liquor Control is like, I think maybe we can work something out as long as we track it. Is there anything on your side that would say, yeah, let's get this in place or, you know, you can do it twice a year? I, I don't know. You know, maybe five bottles every week is too much, too-- whatever.

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JIM MULLEN: I think it's a fair question. So year to date, 97.4 percent is our material fill rate.

HUGHES: Right.

JIM MULLEN: I would have to look at that further to see at any one point in time is a certain brand completely out-of-stock. That is very, very rare. So, again, being in a rural state or rural area, we try to encourage our sales consultants to work on substitutions if that's the case. If Captain Morgan or Jack Daniels leaders are out-of-stock, make your customer aware. Substitute the adequate size, whether it's 750 or 175 at, at the time of the call so that it does ship on that Wednesday or whatever it might be so they have it for their weekend. So--

HUGHES: Or in the case there's a big snowstorm and the distributor's not doing-- I, I don't know. I just-- I think you can't-- it's not going to be 100 percent. There's always going to be a gap.

JIM MULLEN: It's a bit challenging.

HUGHES: There's always going to be a gap. It's OK that there's something that--

JIM MULLEN: The other thing you get into--

HUGHES: --can be--

JIM MULLEN: Correct.

HUGHES: Yeah.

JIM MULLEN: The other thing you can get into is there's challenges with allocations right now with high-end whiskeys, high-end bourbons, tequilas, whatever it might be. I, I believe that this would-- there would be an opportunity for retailers then to buy that product and sell it at a much higher price to on-premise accounts should they need and want that item. They would know they have an advantage and they could-- there could potentially be some price gouging.

HUGHES: Well, then that's up to the bar owner, I would think, to say, yeah, I'm not going to buy it from Jana because she's price gouging me. I'm going to wait for my-- anyway. This is another conversation also.

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JIM MULLEN: Sure.

HUGHES: Thank you for coming in and--

JIM MULLEN: Appreciate the opportunity.

HUGHES: Yeah.

JIM MULLEN: Thank you, Vice Chair-- Chairman Hughes and also thank you for LB376, with the channel pricing. We appreciate that. Thank you for your time today.

HUGHES: All right. Very good. Other opponents?

DAVE TIMS: Good afternoon, Vice Chair Hughes and members of the General Affairs Committee. My name is Dave Tims. I'm the president and general manager of Premier-Midwest Beverage Company, located in Omaha, Nebraska. I'm also on the executive council for the Associated Beverage Distributors of Nebraska, a trade association comprised of 17 independent, family-owned beer distributors in Nebraska. I oppose LB375, which will permit licensed retailers to purchase alcoholic product from other licensed retailers, further weakening the three-tier system. One of the matters we take most seriously is promoting safe and responsible alcoholic consumption and caring for the well-being of those who purchase beer from retailers. We not only have social responsibilities as citizens in the state, but legal requirements are-- but legal requirements in our agreements and other states' franchise laws. Those protect the well-being. For example, we are required by law and by our contracts to remove beer that has been expired. As another example, if there's a recall of the product, we must act swiftly to get those products off the shelves. LB375 would frustrate and impede our ability to meet these obligations. A few years ago, Sam Adams had a recall on some of its products because it was packaging faulty bottles. Those bottles could contain shards of glass. Sam Adams is one of the products that Premier-Midwest distributes. Even more recent, we've experienced exploding cans from a couple of local suppliers. When we received notice of these recalls, we were able to either immediately retrieve those bottles or cans or contact retailers to remove the bottles because we knew exactly where those products were located. If retail-to-retail sales were allowed, we would have a much more difficult time locating that product and acting quickly to remove the potential harm to the public. That concern has only increased because, through retail-to-retail sale, product may long-- may no longer be located in our territories. Beer

distributors operate in exclusive territories. If a retailer in our territory were to sell product to a retailer in another distributor's territory, it is unclear how we would meet our legal obligations. We do not, for example, have the right or the infrastructure in place to remove expired product from someone else's shelves, and we are unlikely to even know that expired product is being held by the retailer, as none of our employees are actively servicing those retailers outside our territory. Additionally, we have contracts in place that require us to take efforts to ensure retailers are not selling product outside of our territory. If we learn of that happening, our agreements require us to take our best efforts to prevent the process, including refusing to further sell product to that retailer. I'm happy to answer any, any questions from the committee.

HUGHES: All right. Thank you for your testimony. Do we have any questions? Oh. Can you please spell your name for the record?

DAVE TIMS: Sorry. D-a-v-e T-i-m-s.

HUGHES: All right. Thank you. All right. Questions for Mr. Tims? All right. None? Thank you for coming in.

DAVE TIMS: Thank you.

HUGHES: Next opponent, please.

ADAM BARNEY: Good afternoon, Vice Chair, members of the committee. Adam Barney, A-d-a-m B-a-r-n-e-y, legal counsel for ABDN. I concur with those statements made by Mr. Tims. LB375 would conflict with our members' obligations under the current law and under their contractual agreements. I'd add that there is a federal law implication of this matter. Under federal law, simply stated, if you are buying alcohol and intend to sell it to someone else who is not the end consumer, you have to get a federal basic permit. Retailers right now in this state do not need to get a federal basic permit because they are not allowed to sell alcohol to anyone other than the end consumer. If, however, LB375 were passed, retailers would be very likely required to obtain these federal basic permits. In all reality, retailers are unlikely to be aware of this requirement. And in all likelihood, LB375 would place unwitting-- unwitting Nebraskans in violation of federal law and subject them to fines and penalties for lack of this permit. There are other concerns with this bill as it relates to some ambiguity on permitted sellers and how it could conflict with other provisions of

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Nebraska law. If committee counsel or the committee has concerns about that, I think we can talk about that going forward. Finally, I, I do need to note that, based on the testimony here today, this, this really isn't a, a beer side issue. It, it really appears more often in the liquor and wine area. We have 17 members in our association. They cover every inch of this state. They have locations from border to border. If somebody needs beer, we find a way to get it to them. We find a way to get it to them quickly. If there's events in-- that might have excess need, we have some members who might have an excess-- a truck down by, down by Memorial Stadium ready to fill a, a quick order if that, if that needs to happen. You don't need to go to a liquor store to go buy that. So as we address these issues, I just want to be aware and mindful that we are working to make sure that these orders get placed and want to continue to promote that diversity of the beer wholesaler industry. Happy to answer any questions.

HUGHES: Thank you, Mr. Barney. Questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chair. And thank you for being here, Mr. Barney. So I appreciate your point. Is it-- federal basic permit is what it's called?

ADAM BARNEY: Correct.

J. CAVANAUGH: Does that apply to all alcohol sales or just beer?

ADAM BARNEY: All.

J. CAVANAUGH: All. And I don't know-- you probably were here when Mr. Rupe testified, and one of the things he did say was that it would probably be a two-sides test-- statement, right? So when they would go and buy it at the grocery store, you would need the grocery store to attest that they bought it there is it sounds like. So what you're saying is that would not only cause them to unwittingly be afoul of federal, they, they would knowingly do it.

ADAM BARNEY: Potentially. I mean, if they're attesting that we're selling it to a retailer, then they know that they are purchasing alcohol product to be sold to another retailer, and that's an issue that, that plagues this area. And, yeah, there are other states who do retail-to-retail. They have different statutory schemes. And I, I believe there's about 80 entities in the state of Nebraska that have federal basic permits. In Iowa, which has some limited retail-to-retail, there are 800 entities that have federal basic

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permits. So it, it adds an extra layer of regulation that is not existing in our system right now.

J. CAVANAUGH: So in a state like Iowa that would allow for this sort of scheme you're talking about, you would have to go to a specific grocery store that would have this federal basic permit?

ADAM BARNEY: I, I don't-- I'm not familiar with the intricacies, but I do know that those retailers, as a result of the scheme that they have put into place, which is fundamentally different than Nebraska's scheme, it, it does implicate them to register with federal law and get that permit.

J. CAVANAUGH: OK. Thank you.

HUGHES: Other questions for Mr. Barney? What does it take to get a federal basic permit?

ADAM BARNEY: It's, it's a form, for the most part. Typically requires a professional to be-- an accountant or a lawyer to help and assist with the process. It is a-- there's no fee associated with it. There are-- the, the, the biggest aspect of it-- well, it takes about three, four months at, at best to get one. But the big, the biggest concern with it is if you don't know you need it and you, and you don't get it, you're opening yourself up to fines and penalties.

HUGHES: So in your opinion-- you heard kind of the issues.

ADAM BARNEY: Um-hum.

HUGHES: And there have been problems. What-- how would you address?

ADAM BARNEY: Well, the only beer issue I believe I heard was there was a foot of snow in Lincoln that basically shut down the city for a day. I mean, nobody was going around anywhere during that period of time. And ultimately, during communications with the distributor, it was figured out and they got the beer there in time for the Blake Shelton concert, which is great, right? On the liquor side, I, I don't know if I have an answer for you, but there's-- we're just not seeing it on the beer side because we have that diversity. And so if there's an issue that needs to be addressed--

HUGHES: So you, so you think if we'd do it, we would only do it for liquor and not beer?

ADAM BARNEY: Well, I think that's something to consider if we're not seeing the issues on the beer side of this. And then we're not opening up potential avenues for that in the health issues that Mr. Tims brought up that we're-- we can't track this all the way through. So finding that limited solution I think is key on anything that we're considering here. But on a more holistic point of view, everything that comes before this committee, I think we need to consider how is it going to impact the diversity that exists of our distributor network. And are we running into issues that is going to turn the beer distributor network into more what you see in the liquor houses, where you've got three large regional, if not national, companies that can spend \$100 million on software. How can we promote this diversity in our system to make sure that beer is able to get to those retailers efficiently and effectively?

HUGHES: OK. Anything else? I don't think so. Thanks for coming in.

ADAM BARNEY: Thank you.

HUGHES: Appreciate it. Next opponent. None. How about anyone in the neutral capacity? And none again. Senator Lowe and we-- all right. What number is this? LB375. We have no proponents, and one opponent e-mailed in, and no neutral.

LOWE: Well, thank you very much for hearing this bill. Number one, there were only a few opponents because we requested that only a few show up, but-- get the message out. Otherwise, there would have been, I think, every distributor here today voicing their opinion. 97.4 percent was brought up about inventory. They don't carry the Christmas things during the month of July, things like that. That's, that's why that number is, is, is low. And then, yes, they do. Distributors want bars and restaurants to carry their products. That's how people see them. That's how people try them before they go out and they buy a full-sized bottle, to see or not that they want it or not. The problem is that if you're a bartender and you're in a busy bar, you don't want to be pouring a 175, the big bottle. You want that liter or 750. It's a flip of the wrist. It's easy to turn. And so that's what they're looking at. And you can't go and put the liquor from a 175 into a 750 or one liter, as Mr. Rupe explained, because of sanitary reasons and you may be pour, pouring a, a Sailor Jerry into a Captain Morgan. And by the way, Sailor Jerry is not so bad. Now, let me explain what happens out in western-- or, central and western Nebraska. I have a bar. I put my order in on Tuesday. It's processed and it's shipped out on Wednesday. This is the way it happens in Kearney because I've owned

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several bars. And, and delivery day is Thursday. They show up at your door on Thursday. So I, I put the order in on Tuesday, shows up on Thursday, and it's short a case or two. Now, the next time I can get that liquor in is next Thursday, which means there's a week in between. And it may be New Year's Eve. It may be homecoming or something like that where you are busy. Now, we did have COVID, and that's where this bill came from. It was during COVID. After we had introduced all of our bills last year, I had-- or, were finishing up introducing the bills, one of our-- my constituents came to me and says, hey, I can't get liquor. I can't get beer. I'm struggling. I-- and I don't have the room for inventory. Every, every space you put for inventory takes out a seat of your restaurant or bar. And we're talking about small businesses here. They can't give up a seat. They can't give up a barstool or two to put in more storage. So that's where this bill came from. And I'm glad that everybody that was a proponent and opponent showed up today so we could start this discussion, because it can be a problem. Because if you are sitting in Scottsbluff, Nebraska and you've got Denver not that far away, but you can't go buy your liquor in Julesburg or in, in Wyoming at Cheyenne. You've got to get your liquor. 900-- or, the round trip is 900 miles away, 920 miles away. If you buy a bottle of liquor and you only need one bottle and you have to drive to Omaha to pick it up and that bottle is \$27, you got \$57.50 just in gas alone getting there, which makes that bottle now \$84.50. Hard to make a profit. And you have wear and tear on your vehicle and stress and everything else getting there. And a distributor looks and says, OK. Maybe we can put a distrib-- distribution warehouse out in North Platte, make it easier for those in central and western Nebraska. Well, now they've got those costs involved. And do they want to stock everything that they need out there? And they may not use all that often. So we need to find something that will help out those one-offs or two-offs a, a year, or maybe three-offs. But during COVID, there was also a shortage of aluminum. So the beer guys didn't have everything all the time. And then there was a shortage of glass. So there were, were shortages. But was that the distributor's fault or the manufacturer's fault? Not really. The glassmakers and, and the guys who make the cans, they were short-staffed. They couldn't have anybody on working. So this is a work-in-process. And I appreciate the committee hearing the bill today. Thank you very much.

HUGHES: All right. That concludes LB375. Thank you, Senator Lowe. And I will turn it back to you.

DUNGAN: Good afternoon--

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LOWE: Good afternoon.

DUNGAN: Sorry. Good afternoon, Chair Lowe.

LOWE: Good afternoon.

DUNGAN: Members of the General Affairs Committee, I am Senator George Dungan, G-e-o-r-g-e D-u-n-g-a-n. I represent the people of northeast Lincoln in Legislative District 26. And today, I'm introducing LB493. LB493 makes a simple change to the language in the State Lottery Act. If passed, it will allow Nebraska lottery tickets to be sold by vending machines. I was approached by the Nebraska Retail Federation to introduce this bill to bring to the attention of the committee and the Legislature the national trend of self-checkout and point out how the Nebraska lottery is lagging behind other states. Of the 45 states with lotteries, Nebraska is one of three that does not offer lottery ticket sales by a vending machine. All states that border Nebraska either offer or plan to offer vending. South Dakota, Iowa, Missouri, Kansas and Colorado currently all offer vending. Wyoming is piloting keno vending and hopes to add lottery vending after that. Unlike other vending machines, lottery vending machines are standalone and secure. They are age-controlled and require a valid driver's license with barcode to be scanned in order to verify the player's age. Nebraska law does not allow lottery tickets to be sold at locations where alcohol can be consumed. LB493 does nothing to change that. It is worth noting that keno, pickle cards, horseracing and soon-to-be casino gambling do not have a similar alcohol restriction. Unmatched by competitors for the gaming dollar, the Nebraska Lottery has distributed over \$908 million in quarterly transfers since it began operation in 1993. At the direction of Nebraska voters, these funds are currently going to education, as directed by the Legislature; Nebraska Environmental Trust Fund; the Nebraska State Fair; and Compulsive Gamblers Assistance Fund. As you are no doubt aware, self-checkout has also been gathering momentum for years. Retailer after retailer, even many who position themselves as service-oriented, are now offering the self-checkout option. The pandemic has accelerated this dramatic growth even faster, as it has instilled a strong desire in shoppers to avoid as much interaction with others as possible. This trend is expected to grow. In addition to the potential to increase sales and beneficiary proceeds over time, the change can help retailers who are dealing with staffing issues and working to respond to consumers' demand for increasingly convenient means of transacting business. LB493 would allow self-checkout through age-restricted vending in locations where alcohol cannot be consumed;

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a very modest and logical update. Thank you for your time and consideration. I'm happy to take any questions that the committee might have, although there are some experts after me who might have more detailed answers than myself.

LOWE: Thank you, Senator Dungan. Are there any questions? Did you get any letters supporting this?

DUNGAN: I did. I, I received some letters. I believe the committee also received some letters. There were some individuals who were in support who, who worked with these vending machines. There was also a couple of children who had actually picked this out, out of a list of bills. They did their research. They talked to me about it. They talked to others about it and came to their own conclusion that it was a good law. And so they wrote in letters of support, for which I'm very appreciative.

LOWE: So children support your bill.

DUNGAN: You know--

HUGHES: Even though they can't play.

LOWE: Your, your, your, your lottery bill.

DUNGAN: The irony is not lost on me, Chair Lowe. But, no. Genuinely, they did reach out. I, I talked to some folks, and I know they were really interested in it and they did their research. And one thing that I think is really important to note on this, and I, I know the-- the committee knows this, if they've heard this before-- but there are age restrictions both at point of sale and the collection of the rewards if they do win. So the vending machines do need the ID that can be scanned. And then, obviously, if you win the lottery ticket, you have to go to a person in order to claim those, those rewards. So I don't have concerns this is going to lead to children having access. I do appreciate their support, though, despite their inability to use it themselves.

LOWE: Thank you very much. Are there any other questions? Seeing none. Will you stay to close?

DUNGAN: I will.

LOWE: All right. Thank you.

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DUNGAN: Thank you.

RICH OTTO: Good afternoon, Chairman Lowe and members of the committee. My name is Rich Otto, R-i-c-h O-t-t-o. I appear before you to testify in support of LB493 on behalf of the Nebraska Retail Federation and the Nebraska Grocery Industry Association. Big thank-you to Senator Dungan for introducing this. Again, LB493 makes one change: it allows Nebraska lottery tickets to be sold through vending machines. First and foremost, for our members, this is a staffing concern. We're trying to free up our staff in convenience stores to grocery stores, allowing consumers to purchase lottery tickets and vending machines just so they have the option of skipping the line and getting what they want in a self-checkout fashion. Not only does it save them time, but it also saves the time of other nonlottery shoppers as well. This is especially true when we have Powerball lines that extend outside the building. Of the 45 states with lotteries, we do have a quick update. It's-- we're now down to two: Nebraska and South Carolina. So Wyoming recently passed the ability to sell keno in vending. They haven't deployed lottery scratch tickets yet, but they did change the law to allow it. Again, standalone and secure machines require a valid driver's license and barcodes to scan to make sure the player's age is verified. Current Nebraska-- we're allowed to sell pickle cards. I think there's hundreds, if not thousands, of pickle card machines that service nonprofits. No age verification is required. Those can be located in gas stations and grocery stores as well. So we think that's a little bit of a misnomer saying that this isn't age-verified and is going to encourage those fifth graders to come in and, and buy lottery tickets that supported the bill. LB493 would allow self-checkout, again, through these ways. Retailers just want to continue selling lottery tickets. However, we don't want the burden to be put on our employees. Freeing up employees to do other things at the customer service counter and giving the retailer options of adding vending machines seems logical on all fronts. We think this is a win-win for the retailer, the consumer and the Nebraska lottery. Happy to answer any questions.

LOWE: Thank you. Mr. Otto. Are there any questions? Seeing none. Thank you. Are there any other proponents?

NATHAN BRTEK: Hello, Senators. My name is Nathan Brtek, N-a-t-h-a-n B-r-t-e-k, from Lou's Thrifty Way in Norfolk. We're a small, independent retailer-- grocery store. And as a lottery retailer, I'm here to voice my support for LB493. These last few years have been extremely difficult in every aspect of business, but staffing has been

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probably one of the most continuous to this day. As far as it-- as far as the lottery goes, we've actually had trouble staffing our Nebraska lottery terminal to the point we almost discontinued the lottery entirely. While we try to offer as many services as, as possible to our customers, we only have a limited number of labor-- or, a, a set number of labor. Along with the continuous rise in minimum wage over the next few years, I find that it's going to be increasingly difficult to staff the lottery. But as far as the, the vending machines go, they will check IDs. You know, our staff is trained in every aspect to check IDs on anybody that walks through the door for lottery tickets. But the problem is I cannot be there every second to make sure they're doing that. You know, we have rules in place, but I can't oversee everything that goes on. The machines check IDs through and through with the-- every time. So it has to be verified. They'd be placed, you know, towards the front of the store under still supervision, just not-- we would not personally have to go through the sale. The final point I'd like to touch on is that the machines are also bilingual. We have a large percentage of our customers in Norfolk that are non-English speakers. Right now, we do staff some bilingual employees, but I can't have one on staff at all times. The machines have an option for switching over to Spanish, which helps bridge the language barrier between the two. That's about everything I have. If you have any questions, feel free. Thank you for your time.

LOWE: Thank you very much, Mr. Brtek. Are there any questions? Senator Brewer.

BREWER: All right. I got to, I got to get this visual on what this is going to look like.

NATHAN BRTEK: Um-hum.

BREWER: So I'm going to show up. You're going to have this autodistributor.

NATHAN BRTEK: Correct.

BREWER: You're going to take a driver's license and use the barcode on the back. Is that how that works?

NATHAN BRTEK: Correct. They will scan-- I believe-- I thought the back and the front.

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BREWER: OK. And then that cool ticket that prints out that I have that says I'm going to win \$100 million, it prints that out automatically, spits it out for you, and you just walk off.

NATHAN BRTEK: After you pay for it. So you'll have to put in--

BREWER: Oh, yeah. I probably should do that.

NATHAN BRTEK: You'll put in a credit card afterwards and then, and then it'll print the ticket with your, with your numbers.

BREWER: But you can do your credit card to do the payment part. So you actually don't have human contact and you have your lottery ticket and you walk off.

NATHAN BRTEK: Correct.

BREWER: All right.

LOWE: Thank you, Senator Brewer. Any other questions? Do these machines take cash?

NATHAN BRTEK: I do not believe they do. I don't believe they dispense cash either. To my knowledge, they will still have to go to an actual person to redeem the ticket itself.

LOWE: OK. So--

NATHAN BRTEK: This is just in the, the, the sale of it, I believe.

LOWE: Just the sale. So if somebody wins something, then you still have to pull somebody off the line to come in and, and do the lottery ticket.

NATHAN BRTEK: Correct. And, right now, we have to do it at our lottery terminal. This would allow them to do it on any check stand. So we wouldn't have to be at the specific lottery terminal. We could pay it out through our regular registers.

LOWE: OK. All right. Thank you.

NATHAN BRTEK: Yep. Thank you.

LOWE: Any other proponents? Any opponents? Welcome.

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PAT LOONTJER: Thank you, Senator. I'm Pat Loontjer. I'm the executive director of Gambling with The Good Life. Since 1995, we have opposed any form of expanded gambling. My address--

LOWE: Could you please spell your name?

PAT LOONTJER: L-o-o-n-t-j-e-r. 12213 Westwood Lane, Omaha. And I'm here today to express what we've expressed for 27 years, is that we are opposed to any form of expanded gambling. And this bill definitely is expanded gambling. It's going to make it much easier for people to lose their money. So one of the things I'd like to read into the record today is a letter from Reverend Lauren Ekdahl, who was in Lincoln for, for many, many years, and now he's out in Scouts-- Scottsbluff, and he is one of the founding members of, of Gambling with the Good Life. And he writes that, in the early 1990s, before the lottery bill was signed into law by the Governor Ben Nelson, I testified before this committee on behalf of the United Methodist Church and Society Committee in opposition to the bill, making the committee aware of the United Methodist Principles statement that gambling is a menace to society, and any attempt to promote it as a source of public revenue should be resisted as immoral public policy. That position still holds true today. [RECORDER MALFUNCTION-- testified several times in opposition to the lottery bill, indicating that it is bad economic policy, not only because it opens the gate to a practice that exploits those vulnerable to addiction, but it collects money from the many and concentrates wealth to a few. I was informed that the bill would only allow \$1 ticket sales and consequently, heard it over and over again. But this was really the camel that got his head under the tent. And there would be virtually no limit to expansion of gambling in the state of Nebraska. As I observed, the proliferation of the gambling revenue in Nebraska, I believe my assessments are accurate, that I was lied to when told the lottery would be limited to only a buck in limited locations. Any attempt on the part of the Legislature to make it easy to purchase lottery tickets only adds to the perniciousness of this moral and economic boondoggle. I remember well the day that Governor Nelson signed this bill. It was Ash Wednesday in 1993. And I wrote him a letter, chastising him for signing that sin bill into law. And since that happened, the expansion of gambling in Nebraska has steadily increased. We are now looking at casinos, sports betting and now, an expansion as far as the proliferation of the lottery. So I ask that the committee put a stop to this expansion of gambling in our state, as an act of moral integrity and sound public policy. So that's the letter from, from Dr. Ekdahl. It says, the statistics show that the

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most-- the average adult, [INAUDIBLE] included, spends approximately \$370 a year on lottery tickets. That's hard to believe. And when the lottery was introduced in Texas, the gambling increased 40 percent. Twenty percent of lottery players account for 71 percent of the receipts.

LOWE: All right.

PAT LOONTJER: So, I was--

LOWE: Thank you very much for your testimony today.

PAT LOONTJER: Thank you.

LOWE: I appreciate it. Are there any questions for Ms. Loontjer? Seeing none, thank you.

PAT LOONTJER: Thank you.

LOWE: Are there any other opponents? Yes, please. Hello.

LORETTA FAIRCHILD: Hello. Thank you all. I am Loretta Fairchild. L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d, PhD economist, raised on a small farm in the Panhandle and my heart is with all of rural Nebraska. What is wrong with LB493? It has zero socially redeeming value. For context, I will point all Nebraskans to the words of Senator Ernie Chambers. Over his long career in this Legislature, he regularly told the truth about the lottery and it is a very ugly story. It is regularly marketed in a highly discriminatory manner, targeting the poorest and most financially desperate people. The marketing should be challenged as highly misleading without any warnings, like investing in the stock market carries with it the risk of loss. Why is a warning like this missing in every lottery ad and news story? People easily become addicted to the lottery, just as they do to all other forms of gambling. Do we believe that the state of Nebraska has an obligation to every person living here to maintain high standards of good government, including do no harm? The lottery has failed that test since it became law. And vending machines only make it worse. What is the history of taxes on gambling in the U.S. and Nebraska? Just like taxes on alcohol and tobacco, they were called sin taxes. The logic of good government was to use a tax to discourage people from buying items considered harmful or undesirable. Health experts are still trying to discourage the use of alcohol, tobacco and gambling, all of which are addictive. But state governments have turned the concept on its head, as they search for revenue at any cost. Why should the

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Legislature tell persons in Nebraska that it is somehow good for Nebraska and fun for you, as a parent, to buy lottery tickets instead of feeding your children? Why did the Nebraska Legislature ignore Senator Ernie Chambers' truths about the damage of the lottery to Nebraska's people and economy? As we all begin to examine our consciences, please care that much of Nebraska's tax system, including the lottery, is much more damaging to Nebraska's people and the economy than is the income tax. Thank you for your patience.

LOWE: Thank you, Ms. Fairchild. Are there any questions? Thank you for coming. Other opponents? Seeing none, are there any in the neutral? Seeing none, Senator Dongan, there were three letters in favor, two opposed and zero in the neutral.

DUNGAN: Thank you, Chair Lowe. And thank you, members of the General Affairs Committee. I know you have a lot of bills today. I won't belabor the point. The part of this that I think struck me as potentially, the most helpful is the freeing up of, of labor. I spoke with, again, Mr. Otto from the Retail Federation and also another-- a number of other individuals who have folks who work at the checkout counters or the cashiers who deal with this. And it really would, I think, alleviate a lot of pressure on them. I personally have been in lines that have gone outside of the door, gas stations and things like that, waiting for Powerball to be distributed. It does take a long time. I think it is burdensome. And when we're already facing somewhat of a labor shortage when it comes to certain jobs, I think making sure those folks have the ability to do their job well and not be distracted by other things such as this that take a lot of time and a lot of energy makes sense. So certainly I appreciate the testifiers here today, but I would encourage the committee to vote for this. And I'm happy to answer any additional questions folks might have.

LOWE: All right. Thank you very much. Any questions? Seeing none, thank you.

DUNGAN: Thank you.

LOWE: Which ends our debate on LB493. Up next, we have LB150. Senator Dover, welcome.

DOVER: Thank you. Thank you, Chairman Lowe. And good afternoon, committee members. My name is Robert Dover, R-o-b-e-r-t D-o-v-e-r, and I'm the representative-- represent Legislative District 19, which consists of Madison County and part of Pierce County. I've introduced

LB150, provides cities of the first class and smaller more control over the common areas of designated entertainment districts. Legislative-- legislation regulating entertainment districts in Nebraska was first passed in 2012. These laws were mostly enacted to fit the needs of Lincoln and Omaha in creating attractive and safe common areas in their cities that provide food and drink to patrons. LB150 proposed changes have been requested by smaller cities that are more restricted in available space for their entertainment districts. This is due to the fact that their entertainment districts will likely be located in a historical downtown or preexisting area that already has restaurants, bars and shops. Currently, Revised Statute Chapter 53-123.17 requires that a common areas have a limited pedestrian accessibility by use of physical barriers and be closed off to vehicular traffic. LB150 would allow cities of the first class, excuse me, LB150 would allow cities of the first class and smaller to regulate safety measures within the common areas of the entertainment district. The city would have to employ reasonable safety measures that include improved lighting, lower traffic speeds and a prohibition on possession of open containers of alcoholic beverages in streets or highways except when crossing at a designated crosswalk. Omaha and Lincoln are exempt from this proposed statutory change. It also alleviates the need for all entertainment district license holders to provide food service while serving alcoholic beverages. Rather, only one entertainment district license holder would be required to provide food, food service. This proposed change would, would include Lincoln and Omaha. LB150 will allow each city to create an entertainment district that is most suitable for the city and as vision for the district, while maintaining safety measures. Cities are the first class and smaller will be able to customize attractive entertainment districts that boost the local economy. I will be happy to answer any questions that I can. Representatives from a number of cities will follow me to answer any specific-- more specific questions that you may have. Thank you.

LOWE: Thank you, Senator Dover. Are there questions? Senator Raybould.

RAYBOULD: Thank you, Senator Dover. I didn't know if I heard correctly, but you said it would apply to Lincoln and Omaha, as well or no?

DOVER: No. The-- getting rid of the req, the req-- the requirement for a partition, a physical partition would not, would not affect Lincoln and Omaha.

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RAYBOULD: But what about the prohibition on carrying open alcoholic liquor containers and consuming?

DOVER: That-- we didn't-- there's no change.

RAYBOULD: OK. Thank you.

LOWE: Thank you, Senator Raybould. Any other questions? So in your thing-- I'm thinking of Kearney. When Kearney does something between the bars, they, they close down a street and they let the, the people go out into the street and have a band out there or something like that. Is this kind of what you're thinking of?

DOVER: No, but we also do that. What this allows for is like, currently we have-- there's a restaurant that has-- it's not a very wide restaurant and it has just a little bit of space for, you know, a couple of tables and some chairs. But then it has to have a partition wall around it, about this tall, probably 40 inches or whatever, by code. And by time you're done, you just have this little monstrosity created here. And what we'd like to do is just maybe-- for those that have been to the San Antonio Riverwalk, actually the group that worked at it, was working for 20 years. They always had this dream about, in Norfolk, of the Riverwalk in San Antonio, which we're thinking, you know, would that ever happen? And actually, through Johnson Park, we're kind of doing that. But it'd just be like a little cafe area, a place to have tables along the road and stuff without having to have individual partitions for each storefront and those kind of things. The city obviously, will-- lighting restrictions. What-- you can't walk, you can't walk out into the street unless you're going to crosswalk. So they'll be using various things that they believe most useful to provide the safety for the citizens.

LOWE: So you're going to take the street out and put a river in?

DOVER: No, we-- you need to come up. It's beautiful. It's absolutely beautiful what we're doing up there.

LOWE: OK. Thank you very much. Any other questions? Seeing none, will you stay to close?

DOVER: No, I won't.

LOWE: OK, so you waive close?

DOVER: We have to be back in Appropriations.

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LOWE: You waive closing?

DOVER: Waive closing.

LOWE: Thank you very much.

DOVER: Thank you, Senator Lowe.

LOWE: OK. Proponents to LB150. Welcome.

DANIELLE MYERS-NOELLE: Hi. Thank you, Mr. Chairman and members of the committee. My name is Danielle Myers Noelle, D-a-n-i-e-l-l-e M-y-e-r-s N-o-e-l-l-e, and I am the city attorney for the city of Norfolk, where I've been employed since 2017. I am here today to testify in support of LB150, which seeks to make changes to the existing entertainment district framework within the Nebraska Liquor Control Act. I first want to thank Senator Dover for bringing this bill forward. LB150 emerged from conversations that city of Norfolk staff had with our elected officials. In the last 5-7 years, Norfolk's downtown corridor has seen a tremendous uptick in the number of concerts, farmer's markets and other events taking place between May and October every year. Many of these events involve alcohol using a special designated liquor license and the exciting atmosphere created by these events has led our elected officials to seek a more permanent change to the way that pedestrian traffic moves between eating establishments and bars downtown. After exploring every option and communicating with the Liquor Control Commission, it became clear that our only option was in an entertainment district. However, the existing entertainment district statute is not conducive, conducive to what the city of Norfolk had in mind. The original bill was drafted in 2012, and the history behind such bill indicates that it was drafted with Omaha and Lincoln in mind. However, the entertainment district statute has not gained much traction with other cities and villages. LB150 amends the entertainment district law as far as it pertains to cities of the first and second class, as well as villages. In conversations with Omaha and Lincoln, their city officials did not want changes to the law as it applied to those cities and that led to the clear demarcation in LB150 between Omaha and Lincoln and the rest in Nebraska's cities and villages. The current law does not allow the city of Norfolk to have an entertainment district that meets the needs and layout of our downtown space, so we wanted to modify the existing law to provide for the kind of layout that would work for us. To stop vehicular traffic in downtown Norfolk would have a paralyzing effect on our business and we simply don't have the traffic count

necessitating such change. We understand that the public safety piece of this conversation is vital and it has been from the beginning, when the city of Norfolk met with Senator Dover, the Liquor Control Commission and others to discuss how to safely implement what we're talking about here today. However, each city knows its downtown layout and the public safety needs best, so the ordinance contemplated within this law should be formulated in a way to allow elected officials and city staff to work closely with their police department to enact needed public safety measures. LB150 contemplates using mechanisms such as enhanced lighting, reduced speed limits and improved signage to slow down traffic and makes it clear that pedestrian activity is the primary mode of transport within the entertainment district. With that in mind, I will do my best to entertain any questions you may have.

LOWE: Thank you very much for testifying. Are there any questions? So you're just talking about putting tables and chairs out on the sidewalk, basically or what, what are you planning to do with the entertainment district?

DANIELLE MYERS-NOELLE: So I can speak only specifically to the city of Norfolk. But what we are talking about here is the bill, the, the statute that was enacted in 2012, it already has mechanisms in place for an ordinance by a city council to establish parameters in any space. But here, we're contemplating our downtown district and it's within that space that alcohol can be consumed. However, in the current statute, it only allows for that to be the case if the, if the streets are closed. So within this, for cities of the first class and second class, the streets don't necessarily have to be closed. However, there have to be-- there are going to be public safety mechanisms in place, like reducing the speeds in-- you know, some sort of signage and lighting, like-- things like that, that will reduce the speeds but won't necessarily close down the streets. So that if you're, if you're a licensee and you're within the district, the entertainment district, you would be able to carry your glass, which is marked with the, with the licensee's name, you would be able to carry that from place-- from bar to bar, as long as it's within the entertainment district.

LOWE: So you have traffic going through--

DANIELLE MYERS-NOELLE: Yes.

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LOWE: --at a reduced speed, whatever that reduced speed is. Are you going to allow parking?

DANIELLE MYERS-NOELLE: Allow, allow what?

LOWE: Parking along that street.

DANIELLE MYERS-NOELLE: Yes. Yes. There will still be parking allowed on the street.

LOWE: So the people walk between cars to go to the next bar across the street.

DANIELLE MYERS-NOELLE: Well, within, within the-- within LB150, it says that you can only cross with a drink in your hand at a designated crosswalk.

LOWE: OK.

DANIELLE MYERS-NOELLE: So, so if you went in the street, I would, I would expect that if you were carrying a drink in the street and you weren't at a marked crosswalk, that you would be cited for open container, just like you would currently.

LOWE: What would stop somebody from say, you walk out of a bar with a Coors Light in your hand and you drink that Coors Light outside and then you grab a Coors Light from your car and then you walk into another establishment with a, a Coors Light and they don't know where you got it from.

DANIELLE MYERS-NOELLE: That is correct. I don't know what would stop somebody from doing that currently, Senator. My, my only answer to that question would be that as contemplated within LB150 and actually within the statute as it currently exists, in order to be part of the enter-- an entertainment district and to be carrying drinks within that entertainment district, it has to be in a cup that has the name of the licensee so that it's clear where the individual got, got that cup from. If you were walking down the street with a Coors Light can, I would imagine that that would, again, be subject to, to the open container citation, because of the fact that it's not in accordance with the, the current statute or LB150.

LOWE: OK. What happens if you pour Coors Light into that cup?

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DANIELLE MYERS-NOELLE: As long as the, as long as the bar, the bar owner, the licensee, would do that and then you would be out in the street with, with the licensee's name on your cup within the entertainment district, then that would be legal, currently.

LOWE: What would happen if you walked out with a beer in a cup and you gave it to a child in your car? What's to stop that? Because you're no longer in the bar, the child has not been carded, he's not being watched.

DANIELLE MYERS-NOELLE: Your point is well taken, Senator. I, I can't speak necessarily to how exactly we're going to prevent every-- everything like that. I think there's some of that already happening within the existing framework of the Liquor Control Act. I would, I would hope that's not an issue. But in terms of how the city of Norfolk would set up our, our entertainment district, we, we plan on, you know, using things like signage and lighting. And, and I hope that that would reduce some of that. In addition, if there was a minor child that was out carrying one of those glasses, it would be clear which licensee was responsible for that. And so, there would be some-- there would be follow-up there and that could result in the revocation of that licensee's license.

LOWE: OK. I'm, I'm just thinking that that's kind of been the, the purpose of closing off a street, to kind of alleviate some of those problems of the past.

DANIELLE MYERS-NOELLE: Correct.

LOWE: All right. Thank you, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chair Lowe, and thank you for being here. So I'm imagining in Norfolk and I apologize. I don't know the street, but that main drag there that's got all the restaurants with, kind of, a nice tree canopy.

DANIELLE MYERS-NOELLE: Correct. Norfolk Avenue.

J. CAVANAUGH: Norfolk Avenue. It's beautiful if you haven't been there. And there's a lot of really cool things going on there.

DANIELLE MYERS-NOELLE: Thank you.

J. CAVANAUGH: So would it be that entire, whatever, four-block area or what's the confines of a, a district?

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DANIELLE MYERS-NOELLE: Thank you for the question. As currently contemplated, that, that-- if this were to pass, that would be something that would be covered in our ordinance. And the city council, the city council would vote on that and move that forward. As we currently anticipate, it would be just down there within Norfolk Avenue and the, the adjacent streets, right in that contained area. The parameters of that will also be dictated by the, the number of bar, bar and restaurant applicants. So the licensees will probably kind of dictate that to some end. If they're all interested, then that will set the boundaries of, of what that district would be. But as-- yes, as we currently contemplate, it would be downtown Norfolk, right around the Norfolk Avenue area.

J. CAVANAUGH: So what happens if you know, two restaurants and bars want to be in and then somebody in the middle doesn't want to be part and then two more people-- does that person just-- or do they have to police anybody trying to bring in alcohol from outside or how-- what's going to happen there?

DANIELLE MYERS-NOELLE: Yes. And, and that's a good question. I think that there would be some policing that's necessary, just like with currently. I think, I think bar owners don't, don't appreciate when you bring in a, a liquor container. And I-- and usually, I don't think they let you leave their bar with one. So that would definitely need to be in place, because they wouldn't be, they wouldn't be licensed. And so, there wouldn't be one of those cups with their name on it until they went through the application process and paid, paid the fees. So there would be some self-policing in that regard. Yes.

J. CAVANAUGH: Thank you.

LOWE: Thank you, Senator Cavanaugh. Any other questions? Seeing none, thank you very much for testifying.

DANIELLE MYERS-NOELLE: Thank you.

LOWE: Next proponent.

JOSH MOENNING: Good afternoon, Chairman Lowe, members of the committee. My name is Josh Moenning, J-o-s-h M-o-e-n-n-i-n-g, and I'm the mayor of the city of Norfolk. First, I want to thank Senator Dover for bringing the bill forward. I'd also like to thank Dani [PHONETIC]Myers-Noelle, who you just heard from, our Norfolk City Attorney, and the League of Municipalities for their careful work in

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helping craft this legislation. As you can see and as you've heard, the bill was written to create as little disruption as possible to the existing statute, while also making entertainment districts allowable and feasible in non-metro Nebraska cities. City of Norfolk is fully supportive of this change. We support the bill for these reasons. First, accessibility and fairness. In the approximately ten years since the entertainment district statute's adoption, only two districts have been established in the state, both in Lincoln and Omaha. For various reasons, the law has proven inaccessible for cities of the first class and smaller. We believe the changes in LB150 provide a more level playing field for rural and urban communities alike. Second, the change provides economic development opportunities via tourism and placemaking, both things of which our state needs more. Norfolk has placed specific focus on elevating quality of life to attract visitors and newcomers and retain youth. We are leveraging our uniqueness to do so, for example, by redeveloping the north fork of the Elkhorn River, as Senator Dover mentioned, into a recreational and cultural draw. We are revitalizing our downtown via sidewalk cafes, sculpture walks, murals featuring regional artists, farmer's markets, live music events and enhanced walkability. We are encouraging people to be outdoors, to walk more and drive less and circulate, circulate throughout our downtown. As they do so, they shop, eat, drink and spend money. An entertainment district, we believe, would only enhance and strengthen the unique, lively and eclectic environment of our downtown. Third, we fundamentally believe in both local control and breaking down regulatory barriers where they need not be. Should LB150 be adopted, no cities and towns will be required to have an entertainment district. They will have the option, however, to create one, should they carefully execute plans to do so, working with their public safety officials to accommodate the safety measures laid out in the bill. And I would note here that the discussion in Norfolk has been closely monitored and been in conjunction with our public safety officials and our police department. Lastly, I'd like to note the certain irony that exists since the adoption of the to-go cocktail law during the pandemic and still in place today. Right now, an individual can order from an establishment a cocktail to go, for purposes of getting into a vehicle and driving away. That same individual was prohibited from walking said to-go cocktail down the sidewalk, enjoying it while taking in the surroundings of a quaint Nebraska downtown district. LB150 allows communities to change that if they so choose. For these reasons, I encourage your support of the bill and would answer any questions you may have.

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LOWE: Thank you, Mayor. Moenning. Are there any questions? The cocktail to go that walks out now, get your car to go, are they allowed to drink that in the car?

JOSH MOENNING: No.

LOWE: OK.

JOSH MOENNING: No. But they are allowed to take it out of the establish-- establishment into their vehicle. And from there on.

LOWE: But, but you still, you still can take that out of your place-- out of the place of business and walk down the street to your home.

JOSH MOENNING: Yeah. This, this bill simply allows for the transport. We want to encourage walkability throughout our downtown. We think that it helps our businesses throughout downtown. We think it helps create a culture that helps us, again, retain youth and attract visitors and newcomers. And tourism, through our river-- riverfront Redevelopment Project and other downtown revitalization efforts has been very important to us. We've looked at models. I know Dani did a lot of work and the League did a lot of work in looking at models from throughout the country that allow such to-go container districts. And I think they, I think they can be enforced reasonably. We again have had discussions with our police department. We started a bike cop program in Norfolk a few years ago and the intent here would be to have officers regularly patrolling the downtown district. And I think that helps with-- in, in measures like community policing, as well.

LOWE: Thank you. You want to promote walking, so wouldn't it be better to close off parking on the street so they have to walk from a distance to those places?

JOSH MOENNING: Yeah. And like, and like was said, we, we do have some events in which that takes place, but they're very confined and, and limited. We, we had that discussion trying to make this work within existing law, but shutting down our entire downtown district-- which Senator mentioned, is several blocks long. It's a linear, dense corridor. It just wouldn't be feasible, because a good amount of parking is on the street downtown. And have-- having this operate in a, in a way in which would, again, enhance walkability and bring more businesses-- more people to these businesses, shutting down parking on a semi-consistent basis, semi-permanent basis just would not be feasible.

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LOWE: Thank you. And you've done a good job with that downtown district. It's a, it's a beautiful area.

JOSH MOENNING: Thank you, sir.

LOWE: Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. And thank you for being here, Mayor. First off, I just wanted to give a shout out also to your bus system. Forklift is one of the best mass transit names I've ever seen.

JOSH MOENNING: I'm not going to take the credit for that name, but I did go to bat for it. It was actually my idea. I had-- and I had to go to bat for it. We had, we had a case study it.

J. CAVANAUGH: Right decision. That was the right decision. I love it.

JOSH MOENNING: Thank you. Thank you.

J. CAVANAUGH: So and, and yeah. You guys got a beautiful downtown. I don't remember if that's-- is that a state highway that runs through that street there?

JOSH MOENNING: It is not.

J. CAVANAUGH: OK.

JOSH MOENNING: It is not.

J. CAVANAUGH: So I was just thinking about, like in terms of this, would it-- would this allow you to set a certain parameter and then potentially expand it or would you have to go back to the drawing board or how would-- do you know how that would work?

JOSH MOENNING: Yes. As I understand it, the, the city council would have the ability to draw up the specific geographic boundaries of this district. And that, that could be changed or amended, given-- I mean, it could be limited as well. You know, so I, I think our council, of which is unanimously supportive of this, would look, naturally, at a location like our downtown, which again, is, is dense and, and linear. And I, I would imagine, would draw up a district that is at first more limited. If it seems to be working reasonably well, could amend it to expand it.

J. CAVANAUGH: And for-- I-- normally, you would picture one of these things, a, a district like this, that does have these, kind of, physical barriers that mark the exit of it. So what's-- if we take away the physical barriers, how is a person going to be on notice that they can't carry their drink past 10th Street or whatever?

JOSH MOENNING: Right, right, right. And that's-- and I think the, the legislation does reference signage, a number of things that a community would have to do within these districts to promote safety and, and visibility. So, you know, what we would intend to do is have plenty of signage. We've already incorporated traffic-calming measures and speed controls within that, within that district. You, you mentioned the tree canopy. Things like that create an environment, environment in which you, you know you're in a place and, and you're moving out of a place. And so, I think that would be accented with, with signage, clearly stating where the district is and, and where it's not.

J. CAVANAUGH: Thank you.

LOWE: Thank you, Senator Cavanaugh. Any other questions? Seeing none, thank you.

JOSH MOENNING: Thank you.

LOWE: Welcome.

JOSH EICKMEIER: Good afternoon, Chairman Lowe and committee members. My name is Josh Eickmeier, J-o-s-h E-i-c-k-m-e-i-e-r. I am the mayor of Seward. While the city does not have any immediate plans for an entertainment district, I am supportive of this bill for what it could mean for communities like Seward in the future, if we were so inclined to pursue economic development opportunities. The real reason I'm here is because I made the critical mistake of telling Mayor Moenning that I was legal counsel for this committee at one time and helped draft the original entertainment district, which apparently qualified me as a historian. And so here I am. Just, just to give you a few thoughts on, on what happened, was the Railyard was being planned. And the developers for the Railyard wanted to create something similar to the Power and Light District in Kansas City. And so when we had that initial discussion, I brought up the concerns of open container, as well as who's liable if there is an issue of a minor in possession, for example. And so those issues were addressed in the original entertainment district legislation. And, and the thing about that was,

at the time, there was no Railyard. So as the negotiation occurred between senators and the developers, they could craft the legislation in a way that everyone could agree on. And then once it was passed, they could then build to suit, if, if you will. Most communities in Nebraska have hundred-year-old downtowns, hundred-year-old buildings, hundred-year-old infrastructure. It wasn't planned out in a way with an entertainment district in mind and that's part of the challenge. In the original bill, you had a, a round peg in a round hole that fit pretty neatly for what Lincoln was trying to accomplish with the Railyard. Now you have square pegs and round holes. And so, communities are, are often trying to revitalize their downtown, become more economic development oriented and, and this is one of those ways to accomplish that. And so I'd be happy to discuss any more of the history, but hopefully with bills like the-- might-- I would not be surprised if this were to pass in the future. There may or-- may be other tweaking that's requested, because each community is going to have different needs and may, may-- being able to make it fit those needs is going to be part of the challenge. So with that, I'd be happy to answer any questions.

LOWE: Thank you very much for your testimony, Mayor. Are there any questions? Yes, Vice Chair Hughes.

HUGHES: Thank you, Chairman Lowe. I feel like I have to ask a question because this is the mayor of Seward. That's my district. What could you see for Seward with something like this?

JOSH EICKMEIER: Well, I mean, that whole idea of, of the entertainment district is to have a public space where you could consume alcohol. You run into open container issues without it, you know, you can't legally take an open container out of a licensed establishment. You know, you talked earlier about you can take off-sale or, you know, things that are supposedly sealed and take those out. But you can't be open. And so, this is, this is a way, if you wanted to have-- allow public consumption, to be able to do that. Seward is unique, in that it has the, the downtown courthouse square. You-- it also has a, a very large 4th of July celebration. You do kind of need a critical mass of licensees, though, to make this make sense, like the Power and Light District, for example. There's a licensee next to licensee, next to licensee. You have places you can walk to. You may have like, at the Power and Light District, they'll have concerts a lot of times. And I think that's what Norfolk is thinking about doing. For Seward, I don't know if it would make sense, but perhaps, you know, at some point, around the bandshell in the downtown area on the 4th of July,

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it may be-- may make sense to have something like that. But this would be the, the next-- this bill is the next step in making that possible. Because currently, as you've heard, it's just not flexible or malleable enough to be able to accomplish those goals as currently drafted.

HUGHES: Thank you.

JOSH EICKMEIER: Thank you.

LOWE: Thank you, Vice-Chair Hughes. Any other questions? Seeing none, thanks.

JOSH EICKMEIER: Thank you.

JIM ANDERSON: Good afternoon, committee members. I am Jim Anderson, mayor of Ashland, J-i-m A-n-d-e-r-s-o-n, and I am here with a letter of support for LB150, which I will read. Community members. I would like to take a moment to express my support for LB150, designating an entertainment district. The designation of this type of district has a potential to be an economic boom for communities, communities like Ashland, Seward and Norfolk and all across the state of Nebraska. Ashland has capitalized on our galleries, boutiques, shops, dining and drinking establishments and proximately-- proximity to Mahoney State Park and the Air and Space Museum in our quest to find our niche in an ever-changing economy. Our niche undoubtedly has much to do with tourism. Adding a district like this, where events can feature drinks from the local winery, expands the types of events that can be held in downtown Ashland and gives us another tool in our economic development toolbox. The benefits of LB150, coupled with the Creative District program, will give back to the entire city through sales tax dollars brought in from events and expanded tourism opportunities. These sales tax dollars help fund our library operations and programming, infrastructure projects, park and pool operations and so much more. As we know, communities across the state are struggling to keep young individuals and families seeking a vibrant social life in their towns. The draw of larger cities with a wide variety of events and opportunities in their communities is difficult to compete with. Allowing our communities to get creative and offer options such as the entertainment district, helps to level out the playing field when young adults and families are deciding where to put down roots and start building their lives. Please don't hesitate to reach out to myself or our city administrator if you have questions regarding how this can further benefit the city and communities like ours.

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Sincerely, Jim Anderson, Mayor. I thank you for being here, allowing us to be here.

LOWE: Thank you, Mayor Anderson. Are there any questions? I just drove through Ashland this weekend and it's very nice.

JIM ANDERSON: You very slow down when you go through.

LOWE: My wife was with me. I was driving slow.

JIM ANDERSON: OK.

LOWE: Thank you.

JIM ANDERSON: You're welcome. Thank you, folks.

LOWE: Mr. Hellriegel, how are you?

ERIC HELLRIEGEL: Well, I'm good, Chairman Lowe. Good afternoon, Chairman Lowe, members of the General Affairs Committee. My name is Eric Hellriegel, E-r-i-c H-e-l-l-r-i-e-g-e-l, and, and I'm here before you in support of LB150. And, and I, I won't go into-- there have been a lot of good testimony that you've already heard, so I'll keep my comments very, very brief for the sake of time. This is another opportunity, for those of us in outstate Nebraska, to look towards economic development and provide various opportunities that are in demand within our communities. We've seen a couple of sidewalk cafe facilities go up in downtown Kearney, on the bricks. We've seen an influx of events within our community, from, from concerts to, to, to gatherings for people and this has been very important for our community, particularly after the COVID-19 pandemic. And it's exciting that this is in front of, of all of you today for consideration. It's simply another tool. It's another lever for communities in outstate Nebraska to compete with dollars that we know are ending up in Lincoln and Omaha for similar purposes. So it's obviously a policy decision and it would be for any community that would undertake whether this would, would be for their community. But I think it's worthy for the, the committee to consider some of these options and consider the legislation, as it's proposed today. I should also mention that we've seen in Kearney and Senator Lowe has been, been part of, of, of this, is we've seen a significant amount of public-private partnership that is going on. We've seen redevelopment, we've seen, you know, a lot of reinvestment into our community. And it's interesting, when we drive through and you see another building, you know, that was, that was constructed in the late 1800s, that's going under a significant

renovation. Those renovations are, are taking care of life safety issues. They're bringing those facilities up for code. They're being used for housing, for retail, for hospitality, which, which really is a key. Those are three legs of the stool that are really part of keeping our downtowns successful in our various communities. Thank you for allowing me to speak to you today. I'd be happy to entertain any questions you might have.

LOWE: Thank you very much. Are there any questions? How are the tourists coming in for the cranes?

ERIC HELLRIEGEL: Well, they're, they're really-- it's, it's starting to happen. I, I had a Facebook memory come up that-- there was a Cranes on Parade function, you know, several years ago. And, and, and it had to do with various sculptures that were created by local and regional artists that brought folks into our community. And, and, you know, tourism is a big part of what we do. You look at our motel district, you look at our whitewater park, you look at the diversity of things that we continue to do in Kearney, Nebraska. It's very unique. It's very special. And so, you know, we benefit from, you know, late February to mid-April, with folks from all over the world that come to Kearney, Nebraska, to see the crane migration. So it's a very special time. We think this type of unique-- those opportunities are what make Kearney's success. And, you know, we're excited to see what the future holds for our community.

LOWE: Thank you. Is Kearney planning an entertainment district?

ERIC HELLRIEGEL: You know, not at this time. It will certainly be a policy decision of our elected officials. I can tell you, really, being the staff liaison for downtown for the past number of years, there have been talks and, and again, we've approved sidewalk cafe licenses for various entities. You know, certainly if this legislation goes through, it would be something that, that would be evaluated if it's, if it's of, of importance to our downtown stakeholders. At this time, we don't have any plans. But, but again, it's a nice opportunity to have in front of us for consideration. There has been talk. Again, when you're talking about communities that were platted in the, in the 1870s, like the city of Kearney is, the way the railroad laid out our downtown doesn't exactly work in a lot of conventional ways for hosting events and those types of things. This merely gives us an avenue to explore those and meet the needs of, of our business owners and our citizens who may, who may look for an alternative way for entertainment in our own community.

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LOWE: All right. Thank you. Seeing no other questions, thank you.

ERIC HELLRIEGEL: OK.

LYLE LUTT: Good afternoon, Chairman, Senators and staff. My name is Lyle Lutt, L-y-l-e L-u-t-t. I'm the director of administrative services for the city of Norfolk, where I've been employed since 1999 and served in various capacities since then. Testifying in support of the bill, obviously. And we talk a little bit about the risk management and how it would potentially get implemented in Norfolk. Obviously, our elected officials are big proponents of this. We're-- primary reason we're here today is because of their thoughts and ideas and how can this become an accomplishment. If this were to pass, we would, as a city, sit down and talk with the law enforcement, police, fire, EMS, parks, streets, ED, economic development, figure out what everything is needed to make this a successful entity and try and strike a balance between what our elected officials want and what the hopes and the divisional functionality can be to make this a safe, beneficial and enjoyment opportunity for the citizens and the visitors to the community. As Mayor Moenning mentioned, it gives the opportunity to communities for-- to take-- to partake in this, not necessarily obligation. However, those communities that do choose to partake in this, I suspect, are going to be trying to enhance the quality of life throughout their community, which plays into another aspect of my role with the city, and that's recruitment and retention. Obviously, you've heard some discussion about that already, so I'm not going to go into too much detail. But I sit in on a lot of interviews and I'm not going to speak for the rest of the employers throughout the community or throughout your communities, throughout the state. You can probably draw your own conclusions. But for finding staff, good quality people, it's a knife fight in a phone booth, trying to get people to locate to your city and maintain them in the city. And even though the passage of this bill, if it were to come to pass, would not necessarily be the end all, be all for the hiring issues. It would be, maybe, help with the person that's trying to decide whether to move to the city of Norfolk to take a job, versus Kansas City or Butte, Montana, that brings them to the community, from the quality for life aspect. Or from the retention aspect, the one that's already sitting there employed through one of the businesses or industries and thinking they want to go off to somewhere else, to help keep them home, to help keep them within the community to raise their families. Thank you for considering this bill. Thank you for this opportunity. Do you have questions, comments or concerns?

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LOWE: Thank you, Mr. Lutt. Are there any questions? You brought up a point about being short-staffed in the establishments and things like that. As we make this entertainment district, who's going to be monitoring the entertainment district outside? Will that be the city of-- whether it's Norfolk or wherever else?

LYLE LUTT: You mean the physical barriers?

LOWE: Well, just maintaining that things are, are happening properly, you know, whether it's minors drinking or somebody doing something they shouldn't be doing.

LYLE LUTT: It's an excellent question, Chairman. And that comes back to where we were talking earlier, about making sure we fully understand-- we, as staff, fully understand what the elected officials want, that we get the buy-in from the division heads. Specifically, specifically in your question, law enforcement, what's going to be their comfort level with enforcement and trying to get that into a written form, to a, to a position where they can be successful and citizens who want to partake can be successful. And enjoyment, I suppose.

LOWE: I think the mayor-- I think was the mayor that said that, that they now have enforcement on bikes.

LYLE LUTT: That's correct.

LOWE: Will this pull them away from their other duties?

LYLE LUTT: That is a tough one for me to say. That would be better for a law enforcement agency. It's--

LOWE: It's kind of added on to whatever else they're doing now. So.

LYLE LUTT: --yeah, it would be, it, it would be something else to consider in the community and we could factor it in that way. As far as it's an additional role and responsibility or we would probably prefer to see it as another opportunity, is as far as-- instead of an obligation. Does that answer your question?

LOWE: Yeah. Thank you.

LYLE LUTT: Others?

LOWE: Any other questions? Seeing none, thank you.

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LYLE LUTT: Thank you.

LYNN REX: Senator Lowe, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. Thank you for your consideration today. We're here today in strong support of LB150. And just to respond to some of the questions that have been raised, what this bill would really allow is for first class cities, second class cities and villages, by ordinance, to have their elected officials work with stakeholders. This is not something that we would envision would happen over a period of a month or two just with the city council. This would be stakeholders. Let's take Norfolk, Nebraska. They've been working with their various establishments within the area to determine what works and what doesn't. Certainly law enforcement, critically important in terms of what they think the capacity would be and they want to do it safely. So we just want you to know that we think that this will be one of those circumstances where, when you look at the elements of the four major elements to establish an entertainment district in this bill, three of the four are identical to what Lincoln and Omaha are doing. It is the fourth one on the last page of the bill that outlines the difference. And that difference is basically making sure that you have lower speed limits, that you have signage, that you have a number of things to make sure that it is safe for the public. And I think, quite frankly, I think it's going to be one of the safer ways in which municipalities can try to incent people to come to their downtown area. In addition, we don't envision that municipalities across the state will all do it the same way. So you may, for example, I'm hypothetically making this up, Senator Lowe, that in Kearney, Nebraska, they may decide it's only going to be on these weekends or on these events that they would allow that. Not every day, not every night, but on certain events in certain times. Just like the mayor of Seward indicated, perhaps it's on the 4th of July weekend when they're already closing streets and doing things. So this has some great capacity to really just enhance a quality of life in a community and really make it vibrant. So with that, I'm happy to answer any questions you have. We really respectfully hope that you advance this bill to committee, so that this-- from committee, so that this can be considered this year, hopefully.

LOWE: Thank you, Ms. Rex. Are there any questions? So we're talking about closing streets and not closing streets. And when I, when I think of the Railyard in downtown Lincoln, it's got a barrier. The, the facility in Omaha, I'm not sure. Does it have a barrier, do you know?

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LYNN REX: It's a barrier, but not in the same way that it would be in Lincoln. It's different, but I mean, it is a limited area and a designated area, for sure. But when, when you look at-- and that means, for example, Senator--

LOWE: With no traffic driving through.

LYNN REX: --I'm sorry?

LOWE: With no traffic driving through.

LYNN REX: That's true. And so the differential here, on page 5, is that this has the signage, the lighting, the reduced motor vehicle speeds and that sort of thing. But I think I just want to underscore the importance of allowing other municipalities to do this sort of thing and compete with what's going on in the surrounding states, whether it's a Kansas City or some of these other areas and again, in a very limited way. I think you're going to find that you're not going to have a municipality do this without their risk managers, their chiefs of police and others partnering with the local retailers, with your local businesses, your city councils and others, to make the determination of what makes sense and, and probably, a very small area to begin. And then by ordinance they may expand that. But I think that it is very possible to do this in a very safe way or else it won't be done, because they have liability, too. So they're going to make sure that this is done properly.

LOWE: So if there is a liquor violation that happens in, in the entertainment district, who gets fined?

LYNN REX: For example, you'll note that this requires, as it does in Omaha and in Lincoln, that they have a logo. So if one is going from place to place with that drink, it's got to have that logo, that cup, they just can't be walking around. And so I think you're going to find, frankly, more compliance with something like this because you're going to have a greater law enforcement presence.

LOWE: So if I own Joe's Cafe and I serve somebody's beer with my logo on it and he walks over to a, a, a restaurant that I can't even see from my establishment because it's a block and a half away, sits down at a, a table that's outside and gives the minor my beer, I have to have watchful eye a block and a half away?

LYNN REX: My understanding is everyone within that entertainment district is going to have the same logo. So basically, what you're

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talking about here is that everybody has a responsibility. All of the bar owners have a responsibility. All the restaurants have a responsibility to make sure that it's not just going to be up to the law enforcement. They also have some skin in this game. And I think they want to make it successful, so they're going to do everything to make sure that that doesn't happen.

LOWE: All right. All my questions are just wanting to make sure that, that doesn't happen.

LYNN REX: I understand. No, I do understand.

LOWE: I, I appreciate it.

LYNN REX: No, I do understand and I appreciate your concern because I know that you have experience in the area, in terms of what happens and what can happen and we appreciate your experience.

LOWE: And I may have done it in the past, supposedly. Any other questions? Yes. Senator Hardin.

HARDIN: In Scotts Bluff County, we have the finest event in Nebraska, known as the rubber check race. If you haven't seen it. You have to come and see it. In a nutshell, we have a beer garden outside and you have to be-- you have to present an ID. Minors are not allowed in. Is that the kind of thing that you would imagine might take place within the entertainment districts, where you essentially have to get a band, a wristband, that allows you into it and it proves that you demonstrated an ID and that you're old enough to be there. Is that the kind of thing?

LYNN REX: I don't think it's going to be closed just to adults.

HARDIN: I see.

LYNN REX: But the reality is, in terms of what the enforcement is going to be, it's going to be very restrictive and it has to be. And so you're not going to have a situation where you're just going to have people walking around handing kids drinks because, frankly, there will be law enforcement there and there will be people making sure that that does not occur. And, of course, the bar owners have a responsibility here, too. They're going to make sure that doesn't happen. So what we would envision, Senator, is that this is going to first begin as a very small area, to make sure that it's successfully

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done and it's safely done. And then they will likely, likely expand it to something a little bit bigger.

HARDIN: Thank you.

LYNN REX: Thank you for the question.

LOWE: One more question along that same line and along my earlier questioning. Say you have two bars, but there might be five establishments in between, a jewelry store and other, other things. Who monitors that area--

LYNN REX: The police.

LOWE: --where, where those glasses are? Because now, you're looking down the street and you're, you're not just focusing on your area in front of your establishment.

LYNN REX: My, my perspective would be that you would have local law enforcement there and again, in a much higher presence than you would normally. That's why I don't-- I wouldn't envision that for many municipalities looking at this, this is not going to be, maybe, even an every weekend sort of thing. It might ultimately become that, but initially, it's not going to be that. I think it's going to be making sure that they can be-- it can be done safely and that there is going to be a presence, so you're not just going to have people just walking around. And I think what Mayor Moenning talked about is very relevant here, in terms of what could be done in, in downtown Norfolk. And also, think about what Mayor Josh Eickmeier said, in terms of the area. For example, Senator Hughes is very familiar with this, the square area in Seward, would be a great location to have, just with the same way that you have a pretty dominant law enforcement presence when you have your 4th of July celebration and other celebrations like that. So you're going to have increased law enforcement.

LOWE: All right. Thank you, Ms. Rex.

LYNN REX: No, thank you very much. Thanks for the questions and the concern.

LOWE: Thank you.

LYNN REX: Thanks for your courtesy this afternoon. Thanks.

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LOWE: Are there any other proponents? Are there any opponents? Is there anybody in the neutral?

HOBERT RUPE: Thank you, Chairman Lowe, members of the General Affairs Committee. Once again, my name is Hobert Rupe, H-o-b-e-r-t R-u-p-e, executive director of the Nebraska Liquor Control Commission. And right up until Mayor Eick was brought in, I thought I would be the only person who remembers the original-- was involved in the original drafting of this bill, back in the day. But I think Senator Raybould was there-- was involved, as well. The interesting part about that, I remember Senator Landis was part of the deal. He was working for the city. And, you know, he kept going for how he wanted it and I kept poking holes in some of his things. And his response was, well, Hobie, I, I-- do you not want this? And I said no. I go, but in your mind, you're seeing people listening to smooth jazz and drinking Chardonnay and we have to regulate to keep fraternity boys from doing keg stands. One thing I will correct, there are four jurisdictions which have adopted entertainment districts: Omaha and Lincoln, but also Beatrice and Alliance, also have entertainment districts. Alliance's is very similar to what was been described, but it's a, it's a street that then, when it's utilized by-- it's completely shut down. They shut down, I think it's a two-block area with, I think, six partial things. So, so the existing statute has been used. But in their case there-- because when they came to us, we said, well, it's got to be clearly shut down two streets. And the cities create the entertainment districts, the commission then, would, would have to issue what's called an endorsement, E-- an E-license on top of it. So you'll get your normal I or C license and then, you have to get an additional, additional E on top, with the judicial fees and it's regulatory, in that respect. The interesting thing, for instance, is Beatrice's is an all interior entertainment district. It was an old historic building that they turned into a lot of bars and shops and restaurants and allow you to go between them, all in the entertainment district. So, so there have been some utilizations of it that were not as designed. And I-- Josh is correct. I'm sorry, Mayor Eickmeier is correct. You know, this very much was designed to create what we got, originally. It was trying-- you know, the original statute was very clearly patterned after the Power and Light District, trying to learn from their mistakes. But it has been used for other purposes. [INAUDIBLE] clear the record, there are other jurisdictions which have utilized it. The other issue is to your question, Senator-- Chairman, the evil part about this statute is it's also got a several-- a joint and several liability. The reason why they're carrying cups around is so

we can prove who sold to the minor? If you can't, technically, the commission can go after all seven or eight licensees in there. And it's not really up for us to prove the minor got the alcohol, just the minor had access within the license. The purpose of it, originally, was how can we have five or six locations, all with very nice, what we call sidewalk cafes, without the fences between them? And that was what was designed originally in the statute and that's really what you see, primarily, in the Haymarket, the Capitol District in Omaha, are, are very much, traditionally, as the statute was intended at the time. But as I say, we've got the two locations which have use-- sort of gone, you know, colored outside the lines a little bit, but still within the statute. So with that, I see I am into the red. It's amazing how fast those minutes ago when you're talking. I'd be happy to answer any questions.

LOWE: Thank you, Director. Are there any questions? So a miner's-- gets caught with a cup and there are seven establishments in this entertainment district. What's the process?

HOBERT RUPE: If they're, if they're, if they're stopped with minor in possession and they're carrying Hobie's Hooch Hut-- I always use that as an-- as a thing and that's the place which the cup is, more than likely they'll go, they'll issue what's called an administrative citation to Hobie's Hooch Hut. And then, we would file-- we would go through the normal administrative procedure. If somehow they're not in a logo glass, that's one reason why the logo glass is required in there, is, you know, if a minor is drunk in there and there's no-- and we can't show where the alcohol came from, potentially, if we have not done it-- but under the statute we could cite all seven-- six or seven for-- because they all have joint liability for that common area. The key thing you have to remember is: let's say if there is seven bars, they're all in charge of which interior, but they all have-- would be enjoying what's called the common area. And the common area is what is jointly licensed by all people who are attached to it.

LOWE: OK. So my scenario where the minor is drinking in front of some other establishment and it was brought up that all the glasses are the same, so everybody is responsible?

HOBERT RUPE: Well, that's one reason I, I would have to disagree with Lynn. I mean, you're not going to get all this-- I mean, it's going to say Hobie's Hooch Hut, Eickmeier's Beer Club, you know, Raybould's Bar and Grill. I mean, they all should be, you know, once [INAUDIBLE] they may all say this or do this, they should be brand logoed with the,

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with the establishment where the cup came from. And that way we know where to start the investigation.

LOWE: OK.

HOBERT RUPE: And sometimes, unfortunately, in, in these common areas, you know, you know, the transaction will, between, you know, the 23-year-old guy goes up there and gets two beers, goes over, hands it over to the 19-year-old girlfriend. And unfortunately, that happens in bars as well-- bars and restaurants, as well. I mean, it's one of those things, where we always emphasize that not only normal rate-- normal areas, but especially out of common areas like this, that there's, there's walking patrols, so look for that. Because, you know, at that point in time, he just committed a crime. He just committed a Class I misdemeanor by, by supplying that, that minor that alcohol. So.

LOWE: All right. Thank you. Senator Raybould.

RAYBOULD: So I just wanted to clear up-- at Raybould's Bar and Grill, because it's in Lincoln, you know, they all check for ID.

HOBERT RUPE: Yep.

RAYBOULD: You get a wristband, if-- and so, all those that are legal to drink have a wristband. Like, like at the Railyard, we have off-duty police officers or private security, depending upon how big the event gets. And probably, in Seward, that's a huge crowd for the 4th of July. But, you know, it's kind of difficult with their square. But, you know, they would be doing some of those safeguards that we learned--

HOBERT RUPE: Absolutely right.

RAYBOULD: --that make a lot of sense to--

HOBERT RUPE: A lot of times, at big events-- at these events, you sort of take the things that you're seeing from big SDLs, because remember, there's always SDL events. I mean, that's what 4th of July would be-- Seward event. I mean, we get those. And so those best-- a lot of those best practices definitely transfer over, you know. You're absolutely right, Senator.

RAYBOULD: --and also, Wilber Czech Festival set the standard, too.

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HOBERT RUPE: Wilber Czech Festival is an interesting issue for liquor enforcement.

RAYBOULD: That's right.

LOWE: Thank you, Senator Raybould. Any other questions? Seeing none thank you.

HOBERT RUPE: Thank you.

LOWE: Any other in the neutral? Seeing none, Senator Dover waived closing, so that ends our discussion on LB150. Next up-- oh, let's see. There was one proponent for LB150, one opponent and one in the neutral-- letters that came in. We are now on LB403, Senator Vargas, welcome. We've been waiting.

VARGAS: Oh, yes, I'm sure. I'm sure

LOWE: You can clear out a room.

VARGAS: That's what I've been told. It's a very interesting previous hearing, by the way. It was really good to hear. Let me know when you're ready.

LOWE: We are ready.

VARGAS: Ready to go.

LOWE: Please.

VARGAS: Ready to go. Thank you, Chairman Lowe and members of the General Affairs Committee. My name is Senator Tony Vargas, T-o-n-y V-a-r-g-a-s. I represent District 7 in downtown and south Omaha. I'm here to introduce LB403, which I introduced on behalf of the Nebraska Craft Brewers Guild. This bill will amend the portion of the Nebraska Liquor Control Act, which deals with self-distribution provisions for craft beer licensees. Now, like most of you, I have craft breweries in my district. I understand the need to adapt the heavy regulation of this industry to facilitate the economic development throughout the state. I appreciate the successful efforts last session to allow limited self-distribution for craft brewers. However, more change is necessary. And you will hear from testifiers today who will outline why the self-distribution cap should be increased from 250 barrels to 5,000 barrels per year. The purpose of LB403 is to accommodate self-distribution needs for craft beer licensees who are already up

against the current 250-barrel cap and those who will need more flexibility, due to distributors' ongoing choices to reduce services for breweries and brands throughout the state. LB403 also clarifies language in last year's bill regarding the use of common carriers or of employees and vehicles. Most employees have more than one job and often, brewery vehicles are used for more than just the brewery and their operations. Also, the distributors are allowed to use common carriers. Of states which have adopted self-distribution for craft beer, Nebraska's current cap of 250 barrels is one of the lowest. And even with LB403's request for 5,000 barrels-- barrels, Nebraska would still be at the low end of states which allow self-distribution of beer. These issues inspired me to introduce LB403. I'm happy to answer your questions, but I do prefer you have-- you listen, first, to the proponents for this bill and their attorney, who will provide examples and analysis to support this legislation and bill. I remain open, as do the guild's members, to amendments to LB403, which would accomplish the simple goals of this bill. I welcome the opportunity to continue work this committee has dedicated itself to, especially within the beer industry in Nebraska. One thing that I will note, in this one pager I shared with you, it's very short and the intent was to just share with you more information on where these self-distribution caps are in other states. I hate losing to Wyoming. And Wyoming being at 30,000 barrels, it seems like we can do a bit better. Thank you very much. And I'm happy to answer questions.

LOWE: Thank you, Senator Vargas. Are there any questions? Senator Day.

DAY: Thank you, Chairman. And thank you, Senator Vargas. 250 barrels. So I'm new to the General Affairs Committee. I don't know if you understand any of the history. Why is ours so extremely low compared to the other states around us?

VARGAS: You know, to be honest, I think that's why we have this hearing. And there's been work-- continued work from this committee in the past and for Senator Lowe and others that have been on the committee and they push for a lot of changes in this area. But I think part of this has to do with what we, what we-- if we actually willing to make changes in legislation in regards to this cap, it's all done in the work that we do here. You know, even when we passed a couple bills last year for, let's say for small distilleries, this cap was introduced at a, at a time where we thought it was competitive with the market and we increased it to be able to allow for more of these small distilleries to be able to grow their industry. And I think this is just some of an area where we are just woefully out of step and

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it's time for us to-- even if we-- again, even if we did the 5,000 barrels, it's still extremely low. We should be encouraging small businesses to develop into small, stronger, small and medium-sized businesses.

DAY: Thank you.

VARGAS: Thank you.

LOWE: Thank you, Senator Day. Senator-- Vice Chair Hughes.

HUGHES: Senators. Thank you, Chairman. Thank you, Senator Vargas. So, new to the committee, as well and maybe, following a little bit in line with Senator Day. Do you-- can you tell me the history of when, like, how many years ago did-- because I'm guessing breweries weren't allowed to distribute at all. And like, when that happened and then, what was the original amount and then, like, has it stair-stepped up over the years or do you know that history?

VARGAS: I think it'll be easier to have some of the testifiers-- and I'll make sure to close and address questions that haven't been answered.

HUGHES: OK.

VARGAS: But I think it'll be much more-- well, honestly, I think it'll be more persuasive hearing it from both the individuals that own these craft breweries, so I'll leave it up to them.

HUGHES: OK. Thank you.

VARGAS: Yeah.

LOWE: Any other questions? So will you stay to close, then--

VARGAS: Yeah.

LOWE: --since you're going to listen and participate?

VARGAS: Yeah, absolutely. Yes. And for a while I was joking with somebody back there. You kept using the Coors Light as the example.

HUGHES: Busch.

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VARGAS: At one, at one point it was Busch and I joked. I was like, I didn't know if you were if you were working for Coors for, for a short stint there. But I appreciate you. I'm, I'm going to stick around.

LOWE: All right. Thank you.

VARGAS: Thank you.

LOWE: Proponents, please. Welcome.

NATHAN HOEFT: Good afternoon.

LOWE: How are you?

NATHAN HOEFT: Good. My name is Nathan Hoeft, N-a-t-h-a-n H-o-e-f-t. I am the owner and sometimes brewer at First Street Brewing Company and the current president of the Nebraska Craft Brewers Guild. I've had the privilege of speaking to this body several times over the last few years and I can tell you, this desk never gets less intimidating. So I am a proponent of LB403. You may not know my history, but we are one of the main reasons that self-distribution got passed in the last legislative session. We had difficulty in finding representation in Lincoln and Omaha and were basically blocked from those markets for a little over two years. I can explain those circumstances later, if you like. Since being allowed self-distribution, I can tell you we have seen a marked difference in our distribution. We really began self-distribution in about August of last year. And I can tell you, in the last quarter of the year, we, we distributed almost 40 percent of our total distribution for the year in that last quarter. So we have seen an improved response to our beers and to our retailer relationships, as well. I, I-- from a selfish perspective, I'm a proponent of this bill because I'm very tired. I would like to be able to hire somebody to take care of this for me. And I-- right now, with it being at 250 barrels, it's very difficult to work out the financial side of it, to make it so I can purchase another vehicle and help create another full-time position within our business. I would very much like to do so and really, that's my speaking points. I'd love to take questions if possible.

LOWE: Thank you. Let me-- are there any questions? So in your distribution--

NATHAN HOEFT: Yeah.

LOWE: --are you basically going around to the local bars and restaurants to distribute or--

NATHAN HOEFT: So originally, we were only allowed to self distribute in Lincoln and Omaha. And we have a little, what I like to refer to as the speedwagon. It's a little van that we use for distributing. And it's, it's literally, my wife and I doing it. She's an amazing salesperson, so we've seen immense growth in our distribution. Since October of last year, we then took over distribution basically everywhere east of Cozad. So we are covering a large territory. I can tell you that I say sometimes brewer at First Street Brewing because I spend more of my time on the road right now and it's been great. We have amazing relationships with our retailers and I think you'll hear that many of them are very pleased with being able to work with us directly. We've been able to bring them products that otherwise they weren't getting. I had a seasonal beer that we put out at the end of last year. It was Eileen's Monster Cookie Stout. We're very lucky to have Eileen's Cookies-- started in Hastings. And that beer sold out faster than any beer I've ever produced and a big part of it is we were actually able to take it and put it in the hands of retailers, who then moved it-- helped us move it.

LOWE: So in the beginning, you were only able to distribute to Lincoln and Omaha because that's where your beer wasn't being distributed?

NATHAN HOEFT: Yes. We didn't have any kind of contract.

LOWE: Did you lose your distributorship or did, did you work out a deal with them?

NATHAN HOEFT: We were released from contract. It was actually a very equitable conversation. I can't disparage them at all. They did a great job and it just works out better for us to handle it ourselves.

LOWE: All right. Thank you very much. Oh, Senator-- Vice Chair Hughes.

HUGHES: Sorry. Yeah, thank you. Thank you, Chair. So are you hitting up to that 250 barrels a year yet, or.

NATHAN HOEFT: No, We are getting closer every month. You know, that works out to a little over 20 barrels a month. And we are getting closer and closer each month to hitting that number, especially if my wife has her way. We will get that number quickly and I imagine, surpass it. And that is one of the difficulties. What happens when we hit that cap? We just have nowhere to go after that. And I imagine I

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would have some very angry retailers if I tell them I'm sorry, I can no longer bring you that beer.

HUGHES: And at that point, if you do hit that cap, you do have to go with an actual distributor or whatever. That's kind of the law, I guess.

NATHAN HOEFT: The idea is that we build up to a place where they then see us as a viable option.

HUGHES: You're big enough for them.

NATHAN HOEFT: Right. And-- but you have to realize, we're talking about a fraction of 4 percent of the entire market. Craft beer in Nebraska makes up less than 4 percent of the entire market. I am much smaller than many of the people you'll hear speak today, so it is a fraction of the amount that they normally distribute. We saw it when the shutdown occurred. At the end of COVID, when things opened back up, we went to our distributor and said, OK, how do we get our stuff back out there? And they said, you know, we know we haven't done a good job for you in the past, so we would be willing to let you go so you can work with another distributor. I'm like, great. So I started having conversations with other distributors and each of those conversations ended in them saying, we're not taking any new suppliers at this time. That's what led to me eventually writing a letter to the Liquor Control Commission and to the Governor's Office and proposing the idea of self-distribution. Because if nobody else wants to sell my beer, I'm more than happy to do it.

HUGHES: So then-- so I think that answered my question I asked Senator Vargas, is self-distribution just started for the first time last year. It just got [INAUDIBLE].

NATHAN HOEFT: August. Well, end of, end of July.

HUGHES: OK.

NATHAN HOEFT: We didn't start until August just because we wanted to close our month cleanly.

HUGHES: Gotcha. OK. Thank you

LOWE: Thank you. So on your deliveries then, are you delivering just a six-pack to the places or are you delivering multiple cases?

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NATHAN HOEFT: It's usually in the form of cases of beer or sixtels or half-barrel kegs.

LOWE: OK.

NATHAN HOEFT: And I think, also, the, the limit of 250 barrels, when we discussed it last year, was also about proving that we were capable of providing adequate reporting and making sure that we were following all guidelines. I can tell you that we have not had a single issue with our reporting. And actually, the Liquor Control Commission has talked to me about beta testing their new software.

LOWE: The-- has any distributors now come back to you and said maybe, hey, you're reaching that 250 barrels, you're doing a good job distributing it. We'd like to take it over again.

NATHAN HOEFT: Not at this time.

LOWE: OK. All right. Thank you very much.

NATHAN HOEFT: Thank you.

LOWE: Next proponents.

JESSICA KRAUS: Hello.

LOWE: Hello.

JESSICA KRAUS: He's right. This is very intimidating. I'm not nearly as accomplished or as cool as Nate, but I will say, on the scale that he gave on where his brewery is at, we're much smaller than that. So, my name is Jessica Kraus, J-e-s-s-i-c-a, last name Kraus, K-r-a-u-s, and I am a co-owner of Lost Way Brewery in Holdrege, Nebraska. My business has been open for about five years now, so in August, we were excited to be able to start self-distribution for the first time. We never had our beer outside of our taproom until we were able to do it ourselves. So huge, really exciting for us. Since August, we've added 11 accounts that we now have our beer in. That's stretching everywhere from Cozad and we just got a couple of accounts here in Omaha. So of-- nine of those 11 accounts are within a 45-minute radius of Holdrege, so really incredible for us to be able to take care of our own, you know, kind of, community. When I, when I first started selling, I was approached by a local business that said, We love your beer, we love your logo, we love, you know, everything that you guys are doing and we would love the opportunity to work with you guys to, to do an

exclusive beer. We thought, heck, yeah. Right. This is incredible. After looking at the volume that they were expecting to sell our beer at, it would be about four barrels a week. So you do the math on that. That would take us to about 208 barrels, and that's just through that one account. So unfortunately, we had to kind of be like, I'm not sure if this is something that we can do at this time. Number one, we're brand new to self-distribution. Number two, it's going to take us awfully close to that cap and we just weren't prepared. What happens when we meet that cap? You know, like you had said, we get to that point and then what? We built up is this, this brand and then, we have to stop until the next year? So I'm excited, number one, that we-- were-- have the opportunity to self distribute. And I think adding or getting a bigger cap would be incredible for small breweries like us. You guys have any questions?

LOWE: Thank you, Ms. Kraus. Where is Lost Way at, in Holdrege?

JESSICA KRAUS: In Holdrege. Um-hum.

LOWE: Where, where at in Holdrege?

JESSICA KRAUS: So right downtown Holdrege, right on Third and East Avenue, so pretty close to, to right downtown.

LOWE: All right. Any questions? Seeing none, thank you very much for coming down. And you did a fine job.

CORY SINCLAIR: Hello. My name is Cory Sinclair, it's C-o-r-y S-i-n-c-l-a-i-r. And I'm one of the owners of Backswing Brewing Company, here in Lincoln, and I'm testifying as a proponent for LB403 to increase the limit on self-distribution. I just first want to thank everybody for your time and for those of you that were here last year for passing the law that allowed us to get some beer sold directly to retailers. And, and this is-- and also, that it's only in territories where they didn't-- where we don't already have a distributor. So during COVID, our distributor in Omaha decided to release our brand, as they did with the number of brands that they carried. And two years later, we have still been unable to find a new distribution partner in Omaha. This effectively blocks our products from Omaha retailers and blocks consumers' access to our products in the Omaha area. So for the last six months, our brewery has been self-distributing, solely in the Omaha market and we're very grateful that we've been given the ability to get our products back into a few retail locations. However, at our current rate of sales, we will most likely surpass the 250-barrel cap

before the end of 2023, just selling in Omaha alone. Two hundred fifty barrels basically allows us 645 gallons a month. And we have one retail location in Omaha that ordered 95 gallons from us, just in February. At that rate, we can only sell our products to six retailers in the entire state and not sell to any bars or restaurants without going over the 250-barrel cap. In Omaha alone, there's 11 Hy-Vee locations and there's more opening soon. And so due to the cap, we haven't even dealt with Hy-Vee. We just started selling to our first Hy-Vee last week. The current limit, 250 barrels, also makes it impossible for us to hire any employees to help get our products to market. If we sell a keg at \$165, the 250-barrel limit essentially caps the distribution revenue that a brewery can make at \$82,000 per year. After the cost of the beer, that leaves you with \$50,000-\$60,000 to hire employees, buy a vehicle, purchase gas, pay for insurance, all the things that you need to do to get your product to the market. So the current limit makes self-distribution financially unsustainable as any brewery will lose money if they hire a single employee to help out with their-- with the self-distribution effort. And anything less than 2,000 barrels is really a money-losing venture. This is after you hire the employees that you need to get, sell and deliver the product. Of the, of the 38 states that allows breweries to self-distribute, Nebraska has, by far, the lowest distribution cap. I think the next lowest is South Dakota, at 1,500 barrels. Colorado breweries have the ability to sell up to 10,000 barrels per year. I think we just heard that Wyoming is now going up to 30,000 barrels per year. All we're asking for is that we have the ability to sell half the volume that our neighboring state of Colorado and a third, I guess, a sixth of what is allowed in Wyoming. And our Nebraska wholesalers do operate in both of those states. And then, also the minor changes with being able to use part-time employees that also have other jobs. And so, like we can't, we can't tell a-- I guess I'm out of time. So if anybody has got a question, I'd be happy to follow up.

LOWE: Thank you. Mr. Sinclair. Are there any questions? Yes, Senator Brewer.

BREWER: Well, I guess the way you described it, I get my voice here, the way you described it, it's really almost a hobby until you get to a certain point. I mean, you, you learn how to do it. You can make different, you know, different batches, but if you want to do it and really have a business that has much chance of growing, you got to get above the 250 by quite a ways.

CORY SINCLAIR: Yeah. Right. Yeah. Yeah. So right now, it's, it's just our two business partners that are out selling the beer and one of them is doing the deliveries. And we're, we're also trying to run a business and we've got two taprooms to run and a brewery to run. And we'd really love to be able to hire some employees. And we, we can't do that right now, just because the, the math isn't there. I mean, if you talk to any, any of us that are doing this, it is impossible to hire a single employee and not go negative.

BREWER: And, and then, essentially, what they become is, is you're their mentor and you, you show them the ropes and that's how you are able to sustain the business at a higher level, as you--

CORY SINCLAIR: Yeah.

BREWER: --increase the volume and--

CORY SINCLAIR: Yes. And we, we were pre-- before COVID, we were previously in all the Hy-vees in Omaha. We've been-- we've still not been able to deal with them, just because the 250-barrel cap is so restrictive that we just-- I mean, we looked at it and we're like, there's no way we can service 11 of these, of these stores without, without any employees. And that would have taken up the entire 250 barrel cap just to deal with Hy-Vee.

BREWER: All right. Thank you.

LOWE: So how big is your brewery, then?

CORY SINCLAIR: Well, we were, we were doing about 750 barrels per year, pre-COVID. Without the Omaha distribution, I believe we've been doing just under 400. I'd have to go back and look at what we did exactly last year, with self-- we started self-distributing in about September. So.

LOWE: OK. So out of that 400 now, you're probably going to-- but that was over a year period. Right.

CORY SINCLAIR: The 400? Yeah.

LOWE: OK. All right. And so, you're going after the Hy-vees next, if, if you can raise this.

CORY SINCLAIR: Yes. Yep.

LOWE: Wouldn't it be better to find a distributor or are they just unwilling to carry your beer?

CORY SINCLAIR: We've, we've met with several of them over the last two years, and no one's been willing to take us on. They-- and yeah. I mean, if you, if you do the math on it, it is more beneficial for you to use a distributor than it is to sell yourself, as long as they're selling as much beer as you could sell on your own. So, yeah, it would be more beneficial to, to have a distributor and have them take care of the Hy-vees for us. I mean, I-- my business-- I don't want to, my business partner's like, we don't want to be in the distribution business. We've kind of been forced-- our hand has been forced into this position. We'd rather be brewing beer and running, running our brewery. But until that time, you know, if we were-- if we get the cap raised, hopefully, we get to a point where somebody is willing to pick up our brand again.

LOWE: All right. Thank you very much. Appreciate it. Thank you, Mr. Sinclair. Next proponent. Good afternoon.

CODY SCHMICK: Good afternoon. My name is Cody Schmick, C-o-d-y S-c-h-m-i-c-k. I'm with Kincaider Brewing Company. Thank you to Senator Lowe and members of the General Affairs Committee for hearing us out today. We are currently not taking advantage of the self-distribution allotment that was given to us last year. We have great relationships with our distribution chain. We have five different distributors throughout the state that we work very, very closely with. And, and overall, we're very pleased with, with the relationship. I am a proponent today because I believe that in craft beer, everything is about growing new brands. We've all seen it. Brands have a life cycle, in the grocery stores, in the, in the liquor stores, at the, at the bars and restaurants. I think that if, if we would do this, it would give new brands an incubation period, right. So if you take, if you take-- we brew 50 beers a year. Our distributor does not carry all those beers. We don't even ask them to carry all those beers. They don't have room for them. Distributors are bursting at the seams with products right now, but the consumer is wanting new products, right. They are wanting to see innovation. They're wanting to see new things on the grocery store shelves. So if you take the 70 or so breweries that we have and your times it by 50 beers a year, that's 3,500 products. There's no way the distribution, distribution chain can handle that. They're going to pick your top sellers. They're going to pick your top two or three, which is great. But what happens when those top two or three brands take a nosedive? And guarantee-- I

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guarantee you they will. All these guys behind me can tell you exactly which brands hit that peak and are coming back down off of that peak. Some of our beers have done that, as well. Beers that I worked forever to grow and to brand and to get out there, have taken a nosedive. That's just the cycle of it. So what I believe this will do is incubate those new brands, to where they can be coming up. And as those other brands start falling off, we're going to have new, exciting brands. If we stop this, I think we're going to kill creativity in the state. One of the guys before me testified about how every other state besides ours has this level of self-distribution. I think we have to have it in-- for, for this industry to go forward. If we don't, if we don't give these guys the runway to be able to run their companies and their breweries the way that they see fit, I think we're going to see, in the, in the years to come, as these beers fall off that ledge, nothing to back it up. And so, that's why I'm here. We have not taken advantage of it at this point because the amount is so small, it's not worth it for us to hire a new person, like these guys laid out those economics before. It's not worth it to hire a new person at this phase. We're hoping if it goes up, we can find some areas of Nebraska that we're currently not covering well and utilize this as a company. But I really-- I think, as a whole, this industry needs this to grow. So that's why I'm asking for your support on this. Any questions I'd be glad to answer.

LOWE: Thank you, Cody.

CODY SCHMICK: Yeah.

LOWE: Senator Brewer.

BREWER: Well, first off, I had a chance just a few weeks ago to tour your facility in Broken Bow.

CODY SCHMICK: Yeah.

BREWER: Very impressive.

CODY SCHMICK: Thanks.

BREWER: You've got a twist that most folks don't have and that's incredibly good food.

CODY SCHMICK: Yeah.

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BREWER: It was a, a regular evening and, and it was, I don't know, 5:30 and it was packed.

CODY SCHMICK: Yeah.

BREWER: And I was surprised, in a small town like that--

CODY SCHMICK: Yeah.

BREWER: --that, that time of the day, you'd be that packed. So you're, you're doing it right, but--

CODY SCHMICK: Thank you, Senator.

BREWER: To the, to the issue of the craft brewery. Right now, how much volume-wise is Kincaider able to produce in a year, barrel-wise?

CODY SCHMICK: How much are we able to produce or how much are we producing?

BREWER: How much do you produce?

CODY SCHMICK: So we'll do between five and 6000 barrels this year. So, so the current allotment is 250 barrels, just to give you a reference. So.

BREWER: OK. Thank you.

CODY SCHMICK: Yep. Yep.

LOWE: Yes. Vice Chair Hughes.

HUGHES: Thank you, Chairman. So to be considered a craft brewer--

CODY SCHMICK: Yeah.

HUGHES: --you can max out at 20,000 barrels total.

CODY SCHMICK: Correct. Yes.

HUGHES: So-- and you're saying you guys max out at 5,000 or 6,000?

CODY SCHMICK: That's what, that's what we're producing and selling right now. We've grown each year, but yes, that's about where we're at.

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HUGHES: And then-- and we're saying like, if this would bump up to 5,000, I mean, that's-- so you're saying I could distribute 25 percent, if I'm a craft brewer, of--

CODY SCHMICK: Yeah.

HUGHES: --my product.

CODY SCHMICK: Yeah.

HUGHES: Is that-- and maybe it just depended on everyone-- like how much-- what percent of your beer do you sell in-house versus what you distribute?

CODY SCHMICK: So we're a little bit--

HUGHES: And I suppose it's different for everyone.

CODY SCHMICK: --we're a little bit different, because we took advantage of the five taprooms. We are max-- currently maxed out on those. So we have six locations where we're selling our beer, that's owned and operated by us. But each business model is different on what they do. Like they said, some of these guys, their entire distribution is on that 250 barrels and we have not taken advantage of that yet.

HUGHES: OK. Thank you.

CODY SCHMICK: Yeah.

LOWE: Thank you, Vice Chair Hughes. Any other questions? Seeing none, thank you very much.

CODY SCHMICK: Thanks.

DAVID VANNIER: Hello.

LOWE: Hello.

DAVID VANNIER: My name is David Vannier, D-a-v-i-d V-a-n-n-i-e-r, and I own the Casual Pint, which is a craft beer bar in Omaha. My wife and I have owned it for about six years and our bar specializes in just craft beer. We do tap beer from around the world, but we specialize in regional and local beers. Retailers like us want to work directly with breweries and have the ability for them to easily deliver orders and we've experienced many positives so far. Since the law changed last year, we've started working with over 15 different breweries now, that

we've never had access to before. That's 15 breweries that our customers now get to enjoy and we get to expose our customers to these breweries that they may want to visit in the future, when they're traveling across Nebraska and giving these smaller breweries a little more exposure than they would normally get. Another positive for self-distribution is this ease of working directly with breweries, because no one cares more about their business than these guys who are brewing this beer. I can be confident when I'm working with them that the order is going to come correctly and it's going to come on time. Usually, the person I'm communicating with is the same person that picks these orders and the same person that delivers the beers, you heard from some of the earlier folks. Maybe the most important positive is better communication and personal service with breweries. These major macro brands are the bread and butter for distributors and to say the local breweries get lost in the shuffle is an understatement. When we are allowed to buy directly, breweries can fulfill those orders for important accounts, which helps retailers like us, giving us more options. A few of the challenges that I face as a retailer, when working with distributors, is inconsistent deliveries. This happens frequently, where you'll place the order, something will get mispicked at the warehouse, because the warehouses are huge. They have thousands of kegs that they're sifting through. We'll get a wrong beer and that can have major impacts when we have an event going on. Because, just recently, we've had something that-- the event was on Wednesday. It took three days to coordinate with the distributor to get the correct beers. And when we did get those beers-- when you get it the same day, the beer suffers because it's been shaken up in the, you know, delivery vehicle, it's usually a little warmer than it should be, beer pours badly. And then, you know, that-- we, the retailer, suffers for that. And then the second situation is these specialty beers. We can talk with breweries all day about, hey, we would love to buy that beer from you, but if the distributor is not willing to warehouse pick that beer for us, deliver that beer for us, sometimes just one keg, then that's definitely a hindrance. We can't get that keg because of that's standing in the way. So by increasing that volume, breweries are allowed to self-distribute and expanding those options, that would be very helpful for a, a business like ours. Thanks for your time.

LOWE: Thank you, Mr. Vannier. Are there any questions? Senator Brewer.

BREWER: What is considered to be the life of a beer, once you put it in a keg or in a can? Is there a date that it has to be sold by?

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DAVID VANNIER: Yes, so it kind of depends on what kind of beer they brew. But all the kegs that we get, they have keg colors on them. They usually, by law, I assume or they have to tell us when it was brewed. And they will give us guidance on what they want their standards to be usually, but six months, sometimes longer.

BREWER: So with the larger distributors, is it a challenge keeping the, the stock fresh and rotated, that-- I mean, because if, if you're not in my place, I'm going to put you where it's convenient and pick you up and move you whenever it's convenient and I mean, who has, kind of, oversight? I mean, does it ever decide when something ships and how often they, they move it around?

DAVID VANNIER: Absolutely. They should be the first ones in charge of that and be watching it. And that situation has come up in the past. But that doesn't happen as often as you would think.

BREWER: OK. Thank you.

DAVID VANNIER: Yeah.

LOWE: Thank you, Senator Brewer. Any other questions? Seeing none, thank you.

DAVID VANNIER: Thank you.

CINDY CHATT: Hello, again.

LOWE: Hi.

CINDY CHATT: My name is Cindy Chatt, C-i-n-d-y C-h-a-t-t, and I own the Chatterbox Brews in Tekamah. Thank you all, Senator Lowe, for having this hearing and everyone else for being in attendance. So Chatterbox Brews is about an hour north of Omaha. We are a farm-to-table restaurant. We focus on as much local as we can and that's everything from our food to the beers that we serve. We have ten beers on tap and a lot of the time, eight or nine of those are from local craft breweries here in Nebraska or right across the border in Iowa. We are, like I said, about 45 minutes from Omaha, about 45 minutes from Sioux City. Restaurants like mine depend on out-of-towners to come and visit and to keep it-- to keep the money flowing, to keep it viable. Being able to have a wide selection, selection of beers on tap is one of the things that's a draw. In my area, we were the first restaurant to have a lot of craft beers on tap and to serve them and I didn't know how it would go. Our grand

opening, we had ten beers on tap. By the end of the day, we had-- I had one keg left. And it was a stout, but-- so it's taken off and it's been a great thing and a draw to the area. And when people from Omaha or bigger cities come in, they are shocked to see what's on tap. Where this bill is important to me is I can't always get the specialty products that come from-- that would come from, you know, the other-- the, the breweries across the state. I have a-- I have great relationships with the breweries themselves, but I have to ask them to tag a special keg, get it to the-- then the distributor has to pick it up and then I have to get it. Communicate-- the relationship that I have with the breweries is good, but it gets lost along the way. I-- sometimes, I get the kegs, sometimes, I get them two months later. Sometimes, you know, I get three of them. So it would help me and my business, being able to have a wider variety of special selections and, and even new breweries that I can't get through my current distributors today. My light is yellow, so I'm getting nervous, but I will go ahead and let you guys ask any questions that you might have.

LOWE: Thank you, Ms. Chatt. Are there any questions for her? Seeing none-- how many taps you have on now?

CINDY CHATT: I have--

LOWE: You still have ten?

CINDY CHATT: --I have ten. Yep. And like I said, it's all craft beer. I have-- I just opened another. We've been open at Chatterbox for six years. I just opened another little bar across the street and I have four taps over there, again, with all craft beer. So it's just trying to bring it to the smaller markets and it's really-- it's taking off.

LOWE: Are you creating an entertainment district of your own?

CINDY CHATT: Kind of, except for we have a highway that goes through town, so I can't really do anything about that, I don't think.

LOWE: OK. All right. Thank you very much.

VANESSA SILKE: Hello, again. Good afternoon, members of the committee. My name is Vanessa Silke, V-a-n-e-s-s-a S-i-l-k-e. I'm the attorney and registered lobbyist for the Nebraska Craft Brewers Guild. One, for everyone who's returning to the committee, a few of you, a couple of you. Thank you for all of your work in the past sessions. I know that whether it's stepwise or by leaps and bounds, we're going to continue to work with you to offer the opportunity for this industry to grow in

Nebraska. And I've talked about this on our first hearing day, everything that my clients do within this group is dictated by statute, whether it's federal or state law. And so, this, this question I get sometimes is why are you bringing beer bills every single year? Well, it's because until we get that leverage to actually grow a business, if it doesn't say you can do it in statute, we've got to come back to you and ask you to change the statute. It's different from a lot of other examples that you've had from testifiers earlier today, like restaurants being able to go and get backup food supplies from a grocery store, in a way that they can't get alcohol. We're looking for that same type of flexibility. But, couple legal things that I want to point out and then I will take any questions that you might have. One thing that's really important, that was a big question when we first passed this was what about enforcement and regulation? This is new, this is different. What's going to happen? One, Hobie Rupe is here, so you can ask him about the record of compliance that my clients have. And two, no matter what, all of my clients are subject to the full police power of the state. That's really important. They are subject, at all times, to audits by the State Patrol or the Liquor Control Commission or anyone else in the local police area that, that might be involved, that has a question or even a, a, anonymous complaint. I've had clients that-- where that has occurred and they've had to show that they have everything in line. And so the idea that they would somehow be skirting the law or tax laws to get through this doesn't really make sense, in this context. I've got two other points and then I'll take questions from you, as well. These benefits not only hand-- this increase, not only benefits breweries that don't have a distributor, it squarely benefits those, like Cody described, where their distributor has unilaterally dropped their brands. So they're only going to take the three top selling brands. What do you do with the rest? You've got to self-distribute. The last thing that I want to make sure, is that the committee knows that I'll continue to work with Senator Vargas and with each one of you to find ways that we can grow this industry, in a way that still covers health and safety issues and still accommodates tax collection. I think we're fine with expanding this without raising either one of those issues, and we welcome any questions you have. So.

LOWE: Thank you. Ms. Silke. Are there any questions? Five thousand barrels. How many craft brewers now make 5,000 barrels?

VANESSA SILKE: I'd have to pull the numbers. There's over 70 of them. And this is--I, I, I can get you the numbers. The short answer is I'll get them for you. However, one thing that gets lost in where were they

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at last year, where are they at this year, is how are they going to grow? And I think that's a more important question to focus on, is, yes, there's, there's quite a few that are under that 5,000 cap, but it's just like when we argued to get five locations, you've got to invest in a brewing system. You're going to do that differently. If you know you can expand locations, then if you're trapped in that once thought. This is that same concept. There's this opportunity for expansion, for new employees and for new markets that happens if you've got a cap, even if it's above your total production at this time, it gives you that lead time to make investments, make choices, hire employees and open new accounts, which we don't have right now because 250 is pretty tight for anyone that might take advantage of it. It's welcome. We're happy to have it to start, but we need more and we hope to work with you to accomplish that.

LOWE: Can you get us the list? Just sometime.

VANESSA SILKE: Yes, I will get you-- the full committee, the list of everybody.

LOWE: Thank you.

VANESSA SILKE: OK.

LOWE: Are there any other questions? Seeing none, thank you very much.

VANESSA SILKE: Thank you.

LOWE: Are there any other proponents? Seeing none, opponents?

JOE KOHOUT: Chairman Lowe, members of the General Affairs Committee. My name is Joe Kohout, J-o-e K-o-h-o-u-t, and I appear before you today as a registered lobbyist on behalf of our client, the Associated Beverage Distributors of Nebraska. ABDN is a trade association of the 17 family-owned beer distributors that employ hundreds of family, friends and neighbors across the state, to provide choice and variety to retailers and consumers when it comes to beer and other beverage choices. Mr. Chairman, I would ask that my testimony today also be placed on the record for the Nebraska Liquor Wholesalers. Mr. Brady had to leave, due to another commitment. I thank you for the opportunity to express the views of our members and their employees in opposition to LB403. Just over one year ago, this committee received testimony on two bills introduced by the current chairman of this committee. Those two bills were LB1235 and LB1236. Both sought to create a mechanism for the self-distribution of beer manufactured by

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Nebraska craft brewers. The hearing of both those bills was held on January 31, 2022. Those of you who were on the committee at the time, recall that the hearing on these two-bit measures went on for a few hours and then multiple testifiers in both opposition and support. Following the hearing through negotiations conducted by Senator Lowe, both sides agreed to a compromise that ultimately passed as part of a package. That, that package included not just an amended form of self-distribution, but also contained the provisions of two other bills, LB899, dealing with the fees set for SDLs and LB900, that extended the current privilege for self-brew-- brewers to have five-- excuse me, to-- for craft brewers to have five physical locations in the state to micro distilleries, so that they could seek to grow in a similar manner, manner to those craft breweries. The amendment crafted by this committee in the form of AM1986 to 12-- LB1236 was the fruit of compromise over two weeks during the short session. Neither side was completely happy with what was ultimately adopted by this committee and ultimately passed on a 46-0-3 vote of the Legislature, but that's what compromise is-- neither side getting everything they want. Now, before you is LB403, a bill that would seek to undo two key parts of that compromise. First, it would increase the self-distribution threshold from 250 barrels to 5,000 barrels, a 20-fold increase in the amount. What the committee heard last year was that very small brewers were having difficulty getting to market and that this was an issue that the Liquor Control Commission wanted to address, as well. A small threshold is what we were comfortable with then and now and what the bill did. That was one part of the compromise. The second issue that this seeks to undo is part-- is the utilization of vehicles owned by a craft brewery. This was another key part of that compromise reached last year. Finally, Mr. Chairman and members, LB1236, granting self-distribution, was enacted in April of 2022, with an effective date of July 2022. This bill hasn't even been in effect for a year. We have not even seen a year of the impact. We encourage you to give LB1236 of 2022 more time to be able to do what it was intended to: allow small craft brewers to get to market. Thank you for your time. I'll try to answer any questions that you might have.

LOWE: Thank you, Mr. Kohout. Vice Chair Hughes.

HUGHES: Thank you, Chairman. Thanks for coming in, Mr. Kohout. So you heard some of the testifiers say that they've got-- I can't even remember. I call them SKUs, but how many different kinds of beer and that their distributors really aren't that interested in taking these smaller craft brewers with all their, you know, different flavors. How

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like, how can that be then, addressed? Because it sounds like some of the distributors don't really want to deal with some of these littler craft brewer. You know what I mean?

JOE KOHOUT: And, and Senator, I appreciate that. What I'm happy to do is, is rush-- is to find out some more information on those. Because I think what I heard here today was a little bit of the comment that we were either released and no one else wants to pick us up or-- and we're happy to do that. You know, just a little bit-- some of those folks may have been-- it may have been a negotiated release of their contract. It may have been a situation where the beer just wasn't selling and we didn't want to hold them to those contracts. So that's, that's what happens in those circumstances. I'm happy to track down and work with our members to try to get answers to those questions.

HUGHES: But like, is there an-- is there something that like, I want I'm let's say prior to this, prior to this, I want my beer distributed. I'm, I'm Bottle-- this is Seward. I'm Bottle Rocket and I want my beer distributed and a distributor won't pick me up. What am I supposed to do? Too bad. I can't sell it at Pac-N-Save in Seward?

JOE KOHOUT: And I think those were the circumstances, frankly, Senator, I think as time has gone on, where we now have 70 craft brewers in the state of Nebraska.

HUGHES: Right. It's grown.

JOE KOHOUT: It's, it's grown. Right. And so that's become an issue for us, as well. That is why we were willing to come to the table in part on LB-- on what became LB1236 last year, was because of those issues with those smaller beers coming to market. That's part of why we were willing to negotiate on that, because what we heard at that time is, hey, we're small, we want to get to market. We're having a tough time finding a distributor. We said, OK, we think there should be some, some guidelines in which you come into the self-distribution marketplace. And that's what LB1236 ultimately did,

HUGHES: And then, it's all-- if it's OK, one more question. I was surprised by the other states, how high theirs goes, even-- because our-- we define craft brewery as 20,000 barrels production.

JOE KOHOUT: Correct.

HUGHES: And Montana does 60,000 barrels. So I guess that's beyond-- they're not a craft brewer anymore? They're just a brewer? Who knows?

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JOE KOHOUT: Yeah. I don't-- I'm not familiar with what-- with-- and Senator, with respect, I don't know what Wisconsin or with-- excuse me, what Wyoming's law-- what other provisions may exist in, in their statutes.

HUGHES: OK. Well, it just sounds like there's, yeah, information on both sides.

JOE KOHOUT: I would just I would just be cautious of only taking one part of the picture--

HUGHES: Sure, there's always two sides.

JOE KOHOUT: --because there's-- and I, I would even say one slices of information--

HUGHES: Sure.

JOE KOHOUT: --even on self-distribution limits, we might not know what other components exist in their law for that.

HUGHES: OK.

JOE KOHOUT: So-- and I'm just not familiar with that.

HUGHES: Yep. Thank you.

LOWE: Thank you, Vice Chair Hughes. Any other questions? LB1236, last year, you weren't even really happy with the 250 barrels, were you?

JOE KOHOUT: We could have lived with zero, but we, but we didn't. Right. I mean, it's yeah.

LOWE: It, it, it was a compromise. It, it, it, it got the, the, the ball rolling and, and everybody is kind of OK with that still, at this time.

JOE KOHOUT: That's correct.

LOWE: OK. Except for the craft brewers, of course. OK. All right. Thank you very much.

JOE KOHOUT: Thank you.

LOWE: Mr. Otto.

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RICH OTTO: Chairman Lowe, members of the committee, my name is Rich Otto, R-i-c-h O-t-t-o. I'm here on behalf of the Nebraska Grocery Industry Association and the Nebraska Petroleum Marketers and Convenience Store Association, in opposition to LB403. I know you've heard a lot of it, upping it from 250 to 5,000. Long story short, the grocers did not oppose the 250 or moving it from 2 to 5 for the number of taprooms. The concern here is basically coming-- well, first of all, we all work in the three-tier system. I do have sympathy for the craft breweries that can't find distributors. That is the frustrating aspect and so that needs to be worked out. But doing the quick math from some of the breweries, you know, 70 breweries up to 3,500 SKUs, I'm hearing thousands of SKUs that are coming to grocery stores that are not going to be funneled through a distributor and the work that that's going to put on our grocery store employees and so, really, that is the concern. We want everyone to work within the three-tier system. I heard a lot of testimony saying, basically, I can't distribute to grocery stores. I want to be able to distribute all of my beer to grocery stores. We think, in those examples, they should be going through a distributor. With that, I'd be happy to answer any questions.

LOWE: Thank you very much. Are there any questions? All right. Vice Chair Hughes.

HUGHES: Thank you. Sorry if I ask too many questions. Couldn't like, then, if you're a grocery store that don't want to deal with that, wouldn't they just say no?

RICH OTTO: It still takes time. I think the perfect example was the one, through a distributor, had Hy-Vee. Now that they're on their own, they don't. So maybe there's a correlation with having the stores and being through a distributor. I don't know. But yes, you're right, Senator. We can say no.

HUGHES: OK. Thank you.

LOWE: All right. Thank you. Any other questions? Seeing none, thank you, Mr. Otto. Are there other-- Mr. Barney.

ADAM BARNEY: Thank you, Mr. Chairman, members of the committee. Adam Barney, A-d-a-m B-a-r-n-e-y. I am here to talk about the dormant commerce clause. For those non-lawyers on the community-- on the committee and the lawyers on the committee who tried their best to forget it after the bar exam, a quick refresher. The dormant commerce

clause invalidates state laws that discriminate against out-of-state actors unless the state can show a legitimate local purpose for the discrimination. In other words, you have to have a good reason to treat out-of-state actors different from in-state actors. And it is considered a high bar for defending that discrimination. This has been a hot, hot topic in the alcohol world in recent years. In 2005, the United States Supreme Court struck down two different states' laws under the dormant commerce clause, laws that had allowed in-state wineries to sell wine directly to consumers but prohibited out-of-state wineries from doing the same. If it sounds familiar, it should. In 2019, the United States Supreme Court struck down a Tennessee law that required retailers to live in the state for two years to get a license to sell alcoholic beverages. The self-distribution law in this state, passed last session, likely already violates the dormant commerce clause. Self-distribution is limited under current law to those in-state actors that hold a craft brewery license. An Omaha craft brewery, under the current law, can self-distribute its products to Nebraska retailers. An identical craft brewer across the mile-- across the river, just miles away in Council Bluffs, cannot. That is, on its face, discrimination. At 250 barrels annually, is it, quote, enough discrimination to prompt the time and effort of a federal lawsuit? I don't know. As Mr. Kohout pointed out, we are less than one year into the, into the current law and there have been no apparent issues at this stage. To be clear, ABDN is not pushing for repeal of, of the current self-distribution law. Last year's bill, bill was carefully negotiated and considered by this committee. It served a purpose of helping establish Nebraska brands, in communities in which they do not have a presence, to grab that presence. LB403 is no longer aimed at that purpose. It proposes an increase to the self-distribution cap that exceeds the annual production of nearly all of the craft brewers in this state. Senator Lowe, to your question to Mr.-- to Ms. Silke, I believe, from the 2021 numbers, there are only four of the 70 craft brewers in this state that exceed the 5,000 limit. That may change though, for 2022. I know Glacial Till was close to being number five. We're happy to provide that breakdown to the committee. So, happy to answer any questions on the fabulous dormant commerce clause, but we have concerns with this bill, obviously.

LOWE: All right. Thank you, Mr. Barney. Vice Chair Hughes.

HUGHES: You can call me Senator Cavanaugh, because I think I'm asking more questions than him now. So, so you're saying this dormant commerce clause, what about the-- like, Montana, 60,000 barrels a

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year. Tennessee. I mean, all the other states that do way more than 250?

ADAM BARNEY: Sure. And so the question is, in Montana, does Montana allow out-of-state actors to self-distribute, as well or are they only allowed--

HUGHES: Because we do not, is what you are saying.

ADAM BARNEY: --because we do not. You can ask Mr. Rupe. I think he's following me. Out-of-state craft brewers, under the commission's interpretation of the statute, are not allowed to self-distribute. And so we are, under the state, discriminating between the in-state and out-of-state and that's, that's the issue. It's not a volume.

HUGHES: Yeah.

ADAM BARNEY: But, but to-- and maybe, try again on your question to Mr. Kohout, on what, what do we do when some of these craft brewers want to sell? Well, they self-distribute, right? If they want to sell these SKUs that are maybe a smaller SKU, they self-distribute. And when you enter into these agreements between a, a supplier/brewer and a distributor, you can approach it in one of two ways. You can define the agreement to say, we're going to do all of, all of craft brewer X's brands, no matter what or you could draft it up and say, we're only going to do crafts A, B and C-- brands A, B and C and that's all that distribution agreement covers. So if they've got a specialty brand that-- I mean, there's enough demand for the top three brands. They use a distributor. If there's a specialty brand that they want to get out and they can't get the distribution partner to sign up, that's when the self-distribute comes into play. That's when the 250 barrels comes into play. But that's, that's why we have this limit.

HUGHES: But they're saying that some won't even--

ADAM BARNEY: Some won't take any wines.

HUGHES: Like, a distributor won't take any of their-- none.

ADAM BARNEY: Sure. And that's, and that's why the 250 comes into place. Right. And if you look at the numbers and again, we'll send over at least the 2021, 2021 numbers from where we're at here. Those craft brewers, I think all but one here-- spoke here today. Their production number is basically the cap for self-distribution, give or take a, a-- some percentage points. OK. So they're asking-- right,

right now the bill says you can self-distribute all of your production, for those who testified. Again, there's a little bit of wiggle room there. But, but they're not self-distributing all they produce. Right. They've got their brewpubs, they've got their taprooms That's taking up a substantial part of that number. But once they start getting that traction and maybe they go out and maybe they get that account, then that's the time that they go in and they say, tell the distributor, listen, this, this brand is working. Right? We've, we've sold this thing, We've sold this thing. Come, come check it out. We don't think you'll have any trouble selling it. That's when those conversations need to happen, of let's put distributor-- distributorship into place, because I think, as the first testifier said, they don't want to distribute, right? I mean, we need to find a way to get these into the successful relationships that we know exist, can get the craft brewers focusing on what they can do best, craft brewing beer and get our members focusing on distributing beer, promoting beer. That's what, that's what we do.

HUGHES: OK. Thanks.

LOWE: Thank you. Are there any other questions? So the dormant commerce laws.

ADAM BARNEY: Dormant commerce clause. Yep.

LOWE: I'm not an attorney and I didn't sleep at a Holiday Inn Express, so thank you for explaining that. Has this been discussed, about the self-distribution and other things, besides craft brewers here in the state? Do you know?

ADAM BARNEY: As far as--

LOWE: Like, like the wineries or the, the liquor distributorships.

ADAM BARNEY: I, I don't know. And I was brought in and retained after last session. And so, I'm not familiar with that, but it's, it's certainly an, an issue. And I mean, you look at, in, in 2005, in the United States Supreme Court opinion, it, it-- for New York-- it was New York and another state. I can't remember. It specifically addressed the issue of in, of in-state and out-state wineries shipping directly to consumers in that scenario, as opposed to retailers, but the-- it's a, it's a, a topic that should-- you should be aware of. And I think the concern is that once you find a dormant commerce clause violation, the courts can go one of two ways. They can just

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knock down the law and say nobody gets to self-distribute or they can say everybody gets to self-distribute. Right? And so then, you've got the craft brewers from outside of Nebraska, somebody underneath 20,000 barrels, which is the-- I mean, you've got big, big producers, but vast majority by numbers are, around the country, are less than 20,000. Then you've got the Liquor Control Commission needing to audit and make sure tax compliance exists for all these out-of-state things. So if, if a court were to find the dormant commerce clause is violated and orders the state to allow out-of-state producers to self-distribute, that's a major, major issue.

LOWE: All right. Thank you

HUGHES: Sorry.

LOWE: Vice Chair Hughes or Senator Cavanaugh.

HUGHES: Sure. So, so then that now, you just said that, and that made me-- leads to another question. So if we have a liquor commission here in the state of Nebraska and so, we say that our own Nebraska entities can self-distribute because our liquor commission has authority over them, if you will. If we would open it up to the guy across the road in Council Bluffs, we have no authority over that, so that would be an issue, right?

ADAM BARNEY: That-- I mean, that's one--

HUGHES: So how could you make that work?

ADAM BARNEY: How, how could the, how could the state of Nebraska make--

HUGHES: How could the state-- we'd have no power over if they come in and, and don't do it correctly or whatever, there's, there's nothing we can do.

ADAM BARNEY: --the, the state of Nebraska could pass laws that regulate how out-of-state actors work here.

HUGHES: We have too many laws. Sorry.

ADAM BARNEY: I-- there, there are ways that it could happen. That's just not the current statutory scheme.

HUGHES: OK.

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LOWE: Thank you, Senator Hughes. Any other questions? Seeing none, thank you, Mr. Barney.

ADAM BARNEY: Thank you very much.

LOWE: Are there any other in the opposition? Good afternoon.

HOBERT RUPE: Good afternoon or evening, depending upon what time it is, I'm not sure. And of course, the day after Daylight Savings Times, I'm always confused anyway. My name is Hobert Rupe, H-o-b-e-r-t R-u-p-e, executive director of the Liquor Control Commission. And as I stated earlier, we were in strong support last year of the, of the bill, which ended up getting passed through a compromise. We thought there were very small breweries did not have access. We were getting complaints. We thought there was a legitimate way to attempt to, to do that. There were numbers thrown around last year, all sorts of different levels and the committee, at that time, decided to go with 250. They thought it was good. Here's probably why. Because sometimes you want to know who's got the numbers, ask the guy who collects the taxes. Seventy-two licensed craft breweries, in 2022, filed reports. Of those, 39 had less than 250 barrels in total production. Four had more than 5,000. That's where the numbers are. And so, you know, that was the numbers from last year. That's how the barrel-- that's how the barrels worked. One thing I will say and I want to commend both the wholesale and the craft brewers industry as, as July rolled around last year. I've never seen a more amicable change in letting out of contracts and trying to reposition-- letting people reposition. I got no blowback, no-- there, there-- I mean, it, it was actually-- there was peace in the valley. I mean, OK, we know we-- here's the new rules. Here's what we're going to do. And everybody was [INAUDIBLE] with them. The wholesalers, if somebody wanted to get out of their contract, from what-- everything I got back, they were more than amicable to allow them to do that, to go down the self-distribution chain. So I want to commend both the wholesalers and the craft breweries for that, because I was somewhat trepidatious as July rolled around, but actually, all my fears came for naught, in that regard. We've been tracking these really, since August. This has not even been a full year yet. We don't know what the implications are going to be, how it's going to come out yet. You know, our commission here is-- Mike said when we come in here, to say basically what I've said, is (a) everybody was, was good last year as it rolled out. Let's, maybe, give this a little time before we got to come back and start tweaking it again. You know, because this was a major change. You know, we allowed the craft breweries to start self-distributing and so far, a

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lot of them are doing it. And those who aren't are generally the bigger guys who aren't going to, who aren't going to need it. And so with that, I'd be happy to answer any technical questions.

LOWE: Thank you, Director Rupe. Are there any questions? OK.

HOBERT RUPE: And what I'll do, Chairman, tomorrow, when I get back to the office, I'll forward over an Excel spreadsheet--

LOWE: OK.

HOBERT RUPE: --which will have a-- for 2022, which will have a per month listing by each of the craft breweries and it will be broken down in both galloneage and in total barrels.

LOWE: All right. Thank you, because I think the last one I have is 2021. So.

HOBERT RUPE: Yeah. We got 2022 now.

LOWE: OK.

HOBERT RUPE: So.

LOWE: Thank you very much.

HOBERT RUPE: Thank you.

LOWE: Appreciate it.

HUGHES: No [INAUDIBLE].

LOWE: Any others in opposition? Is there anybody in the neutral? Seeing none, Senator Vargas. Oh, letters. Letters, letters, letters, letters. LB403. Thank you. There-- letters, there were three proponents, one opponent and zero neutral.

VARGAS: All right. How is everybody feeling? I know it's getting late or later. Chairman, members of the General Affairs Committee, I just-- I appreciate you. I got a couple of things I want to make sure to get on the record. But I want to start out by thanking this committee for multiple things. One, for the work that was done this previous year. You know, for, for some of the new senators, there, there are issues we continually take up. There are groups we continually work with, some on opposing sides on different issues, but not opposing sides on the subject matter. And the negotiation that was made last year, which

was from this committee and was very, very important. I'll also say that we also don't have the benefit of time anymore. If you look around this committee, half of us are going to be gone within the next two years. Right? Chairman, Senator Brewer, myself, we are not going to be here. In the age of term limits, the time that we have to actually solve problems and be proactive about not being reactive takes a toll on us and we only have this 90-day session to actually focus on these things. I've largely been working on issues of, of barriers in front of businesses and small businesses, because I want to make sure that-- look, in, in my district in Omaha, I'm seeing this rise of what happens when we have small businesses that are growing and specifically, breweries. I have a large concentration of them in my district. But I'm also speaking on behalf of a lot of these smaller businesses that are trying to find their footing. Look, a negotiation is a negotiation. Last year, it was negotiated to try to do something. But I do appreciate the leadership of this committee for doing that. But as we know from senators, that doesn't stop us from continuing to push the envelope and actually address the real problem we have, which is how do we grow our state? How do we grow Nebraska? How do we stay competitive? How do we make sure that small businesses become bigger businesses and we are staying ahead of the curve, not reactively behind the curve? The reason why I gave you the numbers on self-distribution and the amount of barrels is for you to get the picture of we may still be behind the curve even when we pass something that was negotiated. Even when we hear the term negotiated, that doesn't mean that was in the best interests of Nebraskans. I think we heard from some of the opponents that they could have lived with zero. It didn't matter if the economic impact was better for the state, they could have still lived with zero barrels. That perception is not what I'm standing in front of you. You, as senators, get to decide whether or not 5,000 is right. And that is a number. It's just [INAUDIBLE] it's arbitrary. It's a number. It could be less. It could be more. The vision of this committee is whether or not we want that number of the percent of small breweries, in Nebraska, to have more than just 250 barrels per year. And that percentage could be a lot higher, when all of us are going to be gone from this committee and new senators and we're taking up the new problem, which is how can we continue to grow Nebraska and for small businesses and for communities across the state. That's the reason why we bring these types of bills. We can't stop. You heard from some of the business owners behind us. This is not just on one end, either. We heard from, you know, Chatterbox and Casual Pint that they are looking to grow. These are smaller communities across our state. They're not small in stature.

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They're trying to meet a need. You know, you describe to Senator Brewer, when you're even going to, you know, one of the breweries and you're surprised by how many people are there. It's because they become a lifeline in communities. And for smaller communities and, and hearing from Chatterbox saying that they want the ability to be more nimble and this allows them to grow, largely because if more individuals are self-distributing and they can meet a bigger demand. You heard from different smaller breweries that they didn't anticipate even getting up to 250 and some of them are going to be up to that cap here, by the end of the year. So what do we do? This is a great problem to have. I was writing down, I was hearing like, this is a great problem to have. The free market has enabled the business to grow and demand to grow, within a small amount of time. These are real numbers. So what do we do about it? That's what this bill is about. I'm asking you to increase the limit, not because it's-- and this is my opinion. Well, I'm not seeking to undo any negotiations. The market and communities and this business sector is seeking to grow and demands for us to do more. That's what I'm asking you to do. Hearing nobody is willing to take me on, I don't care what scenario. If you are a business and that is the scenario you're put in, that is a difficult scenario to be put in, that you can't grow because nobody is willing to take you on. And I also want to make it clear that this isn't about antagonism or enemies. We heard from some individuals that said, I have good relationships with my distributors. It makes better business sense for me to continue to be in that way. But it also doesn't make sense for me to stop us from growing this and allowing others to operate in a different way for their business model. This level of freedom and free market within this industry is very, very important to me. The last thing I'm, I'm just going to ask you is, you know, one of the reasons why I'm bringing this bill is because it frustrates me when we are thinking so reactively. We have an opportunity to think more proactively about this. And I'm not saying that this is ever going to stop. We're going to be gone in a couple of years. And this-- the next committee is going to continue to have conversations on what the new limit might be, on everything. We did this with the, the barrels for production for distilleries, just this last year, I mean, last year. My ask to you is what should we be doing to stay ahead of the curve, so that we maintain competitiveness across, across the country and the midwest? And it's clear that doing nothing, maybe not 5,000, I don't know what the right number is, but staying at 250 is clearly just not going to cut it. And staying there is just telling everybody that negotiations matter a lot more than whether or not the market-- and the free market in this industry in

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Nebraska is demanding for us to do better. With that, I'm happy to answer any questions and I appreciate your time.

LOWE: Thank you, Senator Vargas. Vice Chair Hughes.

HUGHES: Sorry. I'm going to change-- we never talk about the other bullet here, which you added common carrier for distribution. So does that mean I can like, throw something in the UPS and send it somewhere?

VARGAS: No.

HUGHES: I don't know what that means.

VARGAS: But I'm happy to work on both of these aspects. I mean, this is-- this was something that I know was also one, you know, agreed upon component from last year's negotiation.

HUGHES: Agreed upon was you use your own car or van or whatever.

VARGAS: That was my understanding. I wasn't part of those negotiations.

HUGHES: And when you-- but that's what I'm saying. When you say common carrier, you mean you can have UPS with it or--

VARGAS: No, I think the, the, the issue is with having people that are part time, some employees have more than one job.

HUGHES: Like part-time delivery service.

VARGAS: Yeah. Yeah. So--

HUGHES: OK. Thank you.

VARGAS: --yeah. That, that was the issue that we-- that, that, that I remember.

LOWE: Senator Brewer.

BREWER: Thank you, Mr. Chairman. To your point, Tony, when I was sitting at Kinkaid's a couple of weeks ago, I just did a-- kind of a quick count. And I could count two cooks in the back, two bartenders. We had a hostess in the front and half a dozen waitresses. In a town of a couple thousand people, that's a big deal. And then add to that the fact there was probably 40 or 50 people in the different rooms,

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scattered about, eating. So, you know, if we're, if we're doing things that hinders their ability to sustain what they have or have any hope of expanding, we probably need to think that through.

VARGAS: Well, I agree with you. I think what we heard from Kinkaider is the legislation that we changed to allow for more of the-- but I, I don't know. I can't remember the term, but was like, the beer gardens, right. That's already enabled-- and I guarantee you that the best problem we have is if we have to keep increasing that to 10 or 15 or 20. That is a good problem to have, especially when we're talking about-- and I used to be chair of the planning committee. When we talk about the D population in communities that are not in Lancaster or in Sarpy or in Douglas County, we need to make sure that we're growing communities as much as possible and that means maintaining this. Well, that's my two cents.

BREWER: Thank you.

LOWE: Thank you, Senator Brewer and Senator Vargas. Any other questions? Seeing none, that closes LB403. And-- wait. We're going to take a ten-minute break, convenience break. My staff has been sitting here since, well, according to that clock, 12:30, so I'm, I'm all screwed up. So if you don't mind, we're going to take a ten-minute break and we'll meet back here at six-- or 7:00

HUGHES: We get a little snack.

[BREAK]

J. CAVANAUGH: Is this the lightning round? One minute.

LOWE: Thank you for your, your indulgence for the little break we had. It was good to stand up. We are now ready to hear LB404. And can we turn the tem to the-- number around? So

VARGAS: I'll be your page. We're good. Is this it?

_____ : LB404. [INAUDIBLE].

J. CAVANAUGH: Face it-- just face it the other way.

_____ : LB404. [INAUDIBLE] Here we go.

LOWE: Put that one underneath.

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VARGAS: All right. We're good.

LOWE: [INAUDIBLE]. Now we are.

VARGAS: See? I'm done. I can do this.

LOWE: You need a vest.

HUGHES: Probably get paid more.

LOWE: Ben, are we on? Senator Vargas, welcome to the General Affairs Committee.

VARGAS: Thank you, Chairman Lowe, members of the General Affairs Committee. My name is Senator Tony Vargas, T-o-n-y V-a-r-g-a-s. I represent District 7 in the communities of downtown and south Omaha. I'm here to introduce LB404, as amended by a white copy amendment, AM782, which you should have in front of you. And this bill will amend the portion of the Nebraska Liquor Control Act, which deals with franchise agreements between beer producers and beer wholesalers. I introduce this bill on behalf of Nebraska Craft Brewers Guild and I will continue to work with the committee and the body to address this important issue. For some that have been part of this, we had this bill last year. It was starting to have the conversation. This is a continuation, but more importantly, an updated amendment and an updated set of content. So this is not the first time I've introduced alcohol-related bills or worked collaborative-- collaboratively with this committee and the body to pass reasonable legislation that supports the growth of craft brewer industry in Nebraska. Like most of you, I have craft breweries in my district and I understand the need to adapt the heavy regulation of this industry to facilitate economic development throughout the state. This particular hearing is important because it highlights one part of the Liquor Control Act, which is designed to protect about 17 private beer wholesalers in a way that we do not protect in any other alcohol wholesaler or any producer or retail licensee in Nebraska. So I would like to repeat, we do not have franchise protections for wine or liquor wholesalers. And those wholesalers have no issue conducting business in this state, negotiating agreements governing their relationships with producers or making business decisions about the investments they make in trucking, marketing or other aspects of wholesalers business. Further, the beer franchise laws operate to the detriment of dozens of businesses outside of the beer wholesaler tier. You will hear from craft beer producers and their counsel today about these harmful provisions and

the lopsided protections which do not serve any government purpose other than-- well, do not serve any government purpose to protect public health and safety or tax collection, which I believe, in my opinion, is the purview. As amended, LB404's intent is simply to require that beer distributors freely negotiate written agreements with small producers and that those agreements be executed by both parties. This simple reality applies to most contracts in the state of Nebraska and yet, the Liquor Control Act dictates a one-size-fits-all terms by statute, which cannot be waived, even when a beer wholesaler wishes to do so. To clarify, the term small producer is defined in this bill to include craft breweries, which produce 20,000 barrels per year or less. To put this into perspective, the craft brewer market compromises and many people have heard this term, this, this number, less than 4 percent of the total beer sold in Nebraska. This means that LB404, as amended, will not in any way disrupt beer wholesaler relationships with large beer producers, like Anheuser-Busch or Coors, which compromise over 96 percent of beer sold in Nebraska. Furthermore, the white copy amendment to the bill includes language to allow for the option to affirm the continuation of written, fully executed contracts, in place prior to the effective date of January 30, 2024. This provision is important to facilitate ongoing relationships in the limited cases where both parties agree to continue under their current terms, which include the franchise protections. However, current franchise laws do not require a written, fully executed agreement, and the Guild's counsel is here to testify as to the operation of current laws and the impact of this bill as amended. For years, the Guild has worked to find common ground with the beer wholesalers, among others in the industry and in most cases, that effort has been successful. I think we heard that from some in the past hearing on different issues. However, the wholesalers have refused to negotiate when it comes to franchise law reform. We heard that in the bill hearing from last year and the opposition from that. In fact, the only option that the Associated Beer Distributors of Nebraska had offered prior to the last session, prior to that hearing, was to just refrain from testifying at the hearing or from bringing legislation involving franchise agreements for a period of up to five years. I think I personally made it clear that our job is to make sure we're continuing to push forward, because we are term-limited and we have to make sure we're doing right by Nebraskans. This year's communication between counsel for ABDN and the Guild, which includes the language of AM782, only reiterated ABDN's unwillingness to consider adoption of franchise reform in Nebraska. Hence this, over a dozen states have adopted forms of franchise law reform and many more

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have introduced franchise reform bills. The problems created by the franchise laws between beer wholesalers and small producers will continue until this Legislature takes continued action. These issues inspire me to help by introducing LB404 and it's white copy amendment that you have in front of you. This is meant to reduce protection of statutory controls that harm the growth of this important industry. Now, I'm happy to answer your questions and I mentioned this to a few of you, especially since this is much more nuanced. I prefer you listen to the proponents of the bill and their attorney, who will provide some more examples and the reasons why this bill is needed to solve some pressing issues and questions. I remain open, as do the Guild members, to amendments to LB404, with this white copy AM782, which accomplished the simple goal of this bill. I welcome the opportunity to work with this committee to grow the beer industry in Nebraska and I appreciate your continued time today. Thank you.

LOWE: Thank you, Senator Vargas, for your opening. Are there any questions? Seeing none, will you-- oh, yes, Senator Raybould.

RAYBOULD: Thank you, Senator Vargas. You know, I was thinking as I was reading through it, I guess-- don't breweries already have a contract with a distributor, should they care to pick up their product or no?

VARGAS: So this is a very-- it's a little bit of a nuanced bill. It's to solve a couple of issues having to deal with some of the contracts or lack of contracts or written contract language that does exist. I would like to answer that question after some of the testifiers come and-- it will help the examples of-- and why we need to pass a bill like this, is needed.

RAYBOULD: OK. Thank you very much.

LOWE: Thank you, Senator Raybould. Any other questions? Seeing none, will you be staying close on this one?

VARGAS: That's my intention, yes.

LOWE: So, we'll have the first proponent.

JIM ENGELBART: Hello, General Affairs Committee. Thank you for your time today and sticking around so late into the beer drinking hours--

LOWE: You noticed.

JIM ENGELBART: --to, to discuss what is, is, is really, very complex. My name is Jim Engelbart, J-i-m E-n-g-e-l-b-a-r-t. I'm the operations manager for Lazlo's Brewery and Grill Empyrean Brewing Company. I manage the, the brewery side of our, our operation down in the Haymarket. I have 26 years working for the oldest brewery license in the state. I wasn't around when we first opened, but I started about six, six years after that. Our brewery was also the first in the state to enter into a distribution agreement, roughly 25 years ago this month, February, I guess, 1998. Franchise rights, as they stand in statute right now and there's, there's some questions about how that's all supposed to work, even from some of us who have been in the industry as long as I have, as they current exist, though, in our statutes, it's very much a one-size-fit-all-- fits-all setup, as Senator Vargas stated. These statutes were passed in 1986, several legislative sessions ago. And it's not a coincidence that they were passed roughly two years after the last regional brewery in Nebraska closed-- the Falstaff Brewery closed in Omaha in 1984. So roughly two years with no breweries operating in the state, the wholesalers were able to come in and, and get what is, again, a very unique protection in statute to how franchises are handled with beer. Director Rupe testified last year at this hearing that Nebraska has one of the strictest, most stringent franchise protections in the country. So at any rate, these were passed at a time in the country where we had just over 100 brewers, most all of them were large and regional in scale. There was no small brewers and there was no breweries involved in writing the statutes as they currently stand. Today, we have a thriving yet very tiny 75 brewers, as, as we've, we've heard. We compromise 4 percent of the beer market. Brewing has been legal in Nebraska, brewpubs, for 30 years. And we have 4 percent of the beer market. We've made an offer to update these franchise statutes, one that we believe takes suppliers of our scale into consideration. It's not a one-size-fits-all anymore. We're able to freely negotiate some key factors. One of the hardest things with the way the statutes are written is what we would call the breakup. How do we split ways if it doesn't work out? I don't have a lot to testify about that. We've, we've done business with a group of wholesalers in the state for the better part of 15 years. We've never broke up with a wholesaler in Nebraska. We've thought about it. We haven't thought about it recently. But the reason it's come up in the past and the reason we have decided that it's best not to break up kind of goes a little bit like this. As the statutes are written, the way we calculate it, the legal fees and the time to cure, would cost us about five years to make up, if we were to even win a show cause against a wholesaler, in

terms of this is what you need to improve. They get time to improve it. If everything goes well, the relationship continues. My light's on. Thank you. To my knowledge, the only thing I would finish with, is there's only been one show cause case brought in the state of Nebraska. The wholesalers can speak better to that than, than anybody. And it was, it was won by the brewer. I'm sorry, the brewer didn't win that. The wholesaler did correct the situation. They made it right with the brewer. Happened to be the second largest brewer in the country that, that did the show, the show cause case against the wholesaler. I'd be happy to answer any questions.

LOWE: Thank you very much. Are there-- is there any questions? Senator Hughes.

HUGHES: Sorry, Can you-- I think you got a little bit more to say. So can you go back to the-- what you were saying, why it would cost you five years or what-- like, go into that a little bit more, please.

JIM ENGELBART: So specifically, it's, it's a, it's a little bit of time and a little bit of sales. And it's, it's. It's an agreement. Right. But the unwaivable parts of the agreement, what's in the statute, says specifically, that the terms of the agreement are unlimited. So there's no reason to ever come back and, and revisit an agreement with a wholesaler. You're, you're married for life for, for the most part, the way the statutes are written. The statutes are written purposely to be very difficult for brewers to get out of. There's-- if a brewery wants to drop us, there's about three things that we have to do wrong. For us to drop a wholesaler free and clear and be able to go to another wholesaler, we have to prove about 19 different things, as listed in statute. So that becomes very cumbersome. As we heard, most breweries in the state are under 250 barrels. That's under half a million dollars in sales, so how would a brewery like that afford six months worth of legal fees? How would they afford to put a person out into the market to do a show cause against a wholesaler when they're already brewing most of the beer, doing most of the sales, managing a small staff and doing all the ordering of materials that need to brew? So very unique statute. We don't think that statute should go away. We agree with our wholesalers. They need this statute protection, in no small part because the suppliers they deal with are global in scale. The wholesalers are huge. An individual wholesaler compared to any individual Nebraska brewery is huge. Maybe there's some exceptions out in our smaller communities and some of our bigger communities brewers, but as discussed, our top four brewers are 5,000 barrels. All of us

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together made about 53,000 barrels last year, in a market where we're only 4 percent. I think I made my point there.

HUGHES: Thank you.

LOWE: Thank you, Senator Hughes. Senator Hardin.

HARDIN: Educate me. In Nebraska, is franchising the only model that's available, in terms of getting out? I ask, because the FTC regs for 2023 are that-- there are 222 pages in the FTC regs, for 2023, for picking up a franchise, what we call the F word, in what I do in my daily job.

JIM ENGELBART: It's different. The beer franchise is different than everything else. There isn't any other franchise in the state, to my knowledge, that's in statute. That, in and of itself, is the biggest difference. In terms of the, you know, the, the agreements that we write together and we do have written contracts with our wholesalers, but every wholesaler we've gone to write a contract with makes us copy the statute and put it in the contract before they'll sign it. So-- and it's unwaivable anyway. So even if we don't have a contract and it's not written, those statutes are in writing to make them unwaivable, unwaivable for either party, even if we don't have a written contract.

HARDIN: Another question. Distributors have a book of business. They have labels. Sometimes they have a lot of beer.

JIM ENGELBART: So one of the biggest things that's changed in the market and why, why, in my opinion, I see this as a-- again, we're in a different time; thirty years later. When franchise was passed, there, there wasn't any suppliers. There was real concern on the part of all these wholesalers that their suppliers were just going to evaporate and where were their livelihood go? And at the time, most of them only had one supplier. We have over 20 years now, where there's been over 3,000 brewery suppliers in the United States and we just passed 9,000 breweries last year. There is not a challenge on the supply side. There's not a challenge on the supply side in the liquor and wine industry either, where there's been explosions of suppliers. Where we haven't had any explosion is on the distribution side. I can't explain why that is, even though I've been doing this my whole life. My inclination is that there might be some barriers to starting a new wholesaler. One of them may be acquiring brands, but again, this is just conjecture on my part. What do I know? I've only been doing

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this for a living for a while. I'm only one part of a very big picture, too. So I appreciate all of your time today. Any more questions?

LOWE: Thank you, Senator Hardin. Any other questions?

JIM ENGELBART: Thanks, again, so much, for your time.

LOWE: Thank you. And thank you for asking the question. Trevor.

TREVOR SCHABEN: Yeah. Good afternoon. My name is Trevor Schaben, T-r-e-v-o-r S-c-h-a-b-e-n, and I'm here in support of LB404. And thank you for staying late and listening to us. About 24 years ago, my wife and I started Thunderhead Brewing. And shortly after that, we started selling beer through wholesalers around the state. And at the time, I wrote all of our contracts because I didn't understand that the-- that there was implied legislative, legislative wordage that superseded it. So the contracts I wrote for our distributors were one line, basically. B, the party is unhappy. With 30 days notice, we go our separate ways. And over the next several years, I slowly realized that, that contract is executable from only one direction and they, they don't really work for me or and we're not really business partners. I kind of work for them. So that's-- once I realized that, I was looking forward to a day that I might be able to sit here and put my face in, in front of support of some sort of reform. And that's all I got.

LOWE: Thank you. Any questions? Yes, Senator Raybould.

RAYBOULD: So you have breweries in Omaha. Anywhere else?

TREVOR SCHABEN: No, my brewery is in Axtell, Nebraska.

RAYBOULD: Oh, Axtell. OK.

TREVOR SCHABEN: And I started it in Senator Lowe's district in Kearney.

RAYBOULD: OK. OK. Great. Sorry, I got that confused with another one.

LOWE: Senator Hughes.

HUGHES: So 20 years ago, you signed with a distributor. Are you then still with that same distributor?

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TREVOR SCHABEN: Well. Ironically, no. They went out of business. It was Miller Brands of Omaha. And then they sold my brand to another distributor. So I--

HUGHES: And so, you didn't get to negotiate--

TREVOR SCHABEN: --I don't own it.

HUGHES: That part at all?

TREVOR SCHABEN: No. I was informed. [INAUDIBLE].

HUGHES: And you-- so you were with one. It got-- they went under, it got bought out or whatever by another and you're, you're still with that same distributor.

TREVOR SCHABEN: Correct.

HUGHES: Thank you.

TREVOR SCHABEN: But I have to-- I have distributors throughout the state.

HUGHES: Oh, OK.

TREVOR SCHABEN: So if you go to a--

HUGHES: Different ones for different regions.

TREVOR SCHABEN: --yeah-- if you're going to go to a beer event in North Platte, say an agritourism event or something, and you wanted to have beer there back then, you had to sell it through a distributor. So once they sell one drop of your beer, then they own your brand.

HUGHES: OK.

TREVOR SCHABEN: By statute.

LOWE: Thank you, Senator Hughes. Any other questions? Do you miss your old place of business?

TREVOR SCHABEN: I do. Is it for sale?

LOWE: I don't think at this time.

TREVOR SCHABEN: OK.

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LOWE: Are there any other questions? Senator Brewer.

BREWER: Who's the most famous person from Axtell?

TREVOR SCHABEN: Who's the most famous person from Axtell? The swing is the thing. That golfer wrote a book. I can't remember his name.

BREWER: Did you not have someone who won multiple gold medals in the Olympics?

TREVOR SCHABEN: I don't know. I'm not from Axtell.

BREWER: His name is Gary, his name is Gary Anderson.

TREVOR SCHABEN: OK.

BREWER: He's the most famous shooter in the history of Nebraska. But that's all right. You failed miserably. [LAUGHTER].

TREVOR SCHABEN: I'm really good at making beer.

HUGHES: Ouch.

_____ : This committee is getting harsh today.

HUGHES: No kidding. It's getting punchy.

LOWE: You're supposed to know these things.

BREWER: It's late.

TREVOR SCHABEN: There's a lot of history I don't know.

BREWER: It's all right.

LOWE: Thank you, Senator Brewer. Any other questions? Seeing none, thank you.

TREVOR SCHABEN: All right. Thank you.

LOWE: Good evening.

SCOTT STRAIN: Good evening. My name is Scott Strain, S-c-o-t-t S-t-r-a-i-n, and I'm a co-owner at Kros Strain Brewing Company, also, the treasurer for the Craft Brewers Guild. Our brewery is located in La Vista and we've been in business for about six years now. So during

that time, we've grown to be one of the largest breweries in the state. We have multiple contracts and distribution agreements with multiple distributors across Nebraska and also in Kansas, Iowa and South Dakota. So I'm very familiar with the, the contracts and the, the agreements and also the franchise statute. And it's important to understand that in order to sell beer, we are required to use the wholesalers. And once we begin working with them or sign a contract with them, they, as was mentioned, own our brand into perpetuity, essentially. The-- we, we cannot get out of the contract with the wholesaler, regardless of how poorly they're performing. The franchise laws were put into statute specifically for that reason. That is the only reason they exist. It is to prevent a brewer from leaving the wholesaler. And, and there's termination language in the contracts we do with the wholesalers, but it's, it's as good as the paper it's written on. The state statute supersedes any termination language. And as was mentioned earlier, the process to go through the state statutes' franchise steps is extremely cost prohibitive. It's so much so that basically, nobody even attempts it. And, and it's interesting, too, because as was mentioned earlier, no other wholesalers receive this state protection. Wholesalers and wine and spirits don't need this protection. You know, you think of every other wholesaler that's stocking all the grocery stores. You know, none of those have any type of protection from their suppliers. This is completely unique to beer wholesalers. And it's important because that, that means they have an immense amount of control over our business. You know, if they decide they don't want to carry some of our brands or maybe they're angry with us because we keep bringing issues up with them, they can completely control the fate of our business. We, we can try to work with them and try to get them to change. But there is really nothing we can actually do if the relationship is going south, so we need, we need ways to be able to switch to a different wholesaler or to drop our wholesaler and self-distribute. If the relationship has gone that south, we need a way to exit. There's-- this is a complex issue. I could talk at length about it, so I would be happy to take any questions.

LOWE: Thank you, Mr. Strain. Any questions? Yes, Senator Raybould.

RAYBOULD: Have you ever successfully exited a, a contract with a wholesaler?

SCOTT STRAIN: No. Again, it's-- I mean, it's so cost prohibitive I wouldn't even attempt it really, at this point. If the wholesaler-- if you have some inkling that the wholesaler might agree to let you go,

then, then it can go a little smoother. As you've heard, some people have been let go from their contracts. And in those situations, the wholesaler made that decision, but they 100 percent make that decision. We have no recourse or ability to really influence that decision.

RAYBOULD: Thank you.

LOWE: Thank you, Senator Raybould. Any other questions? Have you had major problems with the wholesalers?

SCOTT STRAIN: We-- I mean, we have continual problems. It's, it's a-- I mean, like I said, we've been doing this for about six years. And when we first started, it was shocking how, how often we were dealing with distributor issues. Some of them, I think you've heard earlier today in other testimony, you know, but for example, when you set up an event with a, a bar and then on, on-- you got a whole tap takeover or maybe a beer pairing dinner, you know. And then the wrong beers get delivered, you know, you think, well, maybe that's a one off. But I mean, essentially that event's ruined, especially if it's a beer dinner, because they've specifically planned meals to complement the beers. You know, you think that's a one off but then if it happens, you know, a month later with another one and a month later. And then, you're constantly hearing from retailers that say, hey, you know, all-- I can only buy like, two of your beers. What's the deal? You guys-- I know you guys-- I saw you came out with this other beer. And I said, well, unfortunately, you're in a territory where that distributor doesn't want to purchase that beer from me. And we have, we have multiple retailers across the state that would love to have our full suite of beers. I mean, we make 40-50 beers a year and there's tons of retailers that would love to carry those, but most of them only have access to a few, a few of those beers. And so that, obviously, that's not beneficial for the retailer and it greatly limits my ability to, to grow my brand, as well.

LOWE: All right. Thank you. Any other questions? Seeing none, thank you very much.

SCOTT STRAIN: All right. Thank you.

VANESSA SILKE: OK. We're almost there. This is-- my, my name is Vanessa Silke, V-a-n-e-s-s-a S-i-l-k-e. I'm the attorney and registered lobbyist for the Nebraska Craft Brewers Guild. Thank you all for your patience and engagement on these very important issues

for the craft beer industry and for Nebraska's regulatory scheme within the state. I want to highlight a couple of things. One is the dormant commerce clause as it relates to last bill and this bill and two, the specific statutes that are captured by the testimony from the fire-- former testifiers, up here. So I'm going to start with dormant commerce clause. So one, we went through this about six years ago with Senator Larson. Some of you were around, some weren't. Dormant commerce clause was raised as basically, a boogeyman, to try and kill the craft beer statutes that were in writing at that time. And that argument was resoundingly rejected by the Nebraska Legislature. And I have a number of legal documents with analysis if any of you want to see it. But the important thing to know about Granholm, the Cliffs Notes, is that it involved two cases paired together. One, a state said if you, if you are an in-state winery, you can sell direct to consumer. If you're out-of-state winery, you cannot. They barred out-of-state wineries from the direct-to-consumer market. That has nothing to do with what LB403 does, which simply allows self-distribution. It doesn't cut anybody out of state out of the market. And frankly, if we want to have--

LOWE: Let's stick to just LB404.

VANESSA SILKE: Four-- yes. And for LB404, this deals with contracts clause and interstate commerce and a number of other issues and is specifically designed to make sure that in-state and out-of-state brewers have the same contract rights, which are different from the police power issue I noted on the last bill. And I appreciate you wanting me to focus on that. I just wanted to make sure that that distinction was made. Those cases that govern that in the way that it relates to this bill, specifically; the other one had different tax rates for producers, in-state versus out-of-state. We treat producers the same under this bill for LB404. And I noted the police power difference under the last bill. So that's the dormant commerce clause. If you want legal analysis, I can provide what we already gave the Legislature so many years ago. I'm running low on time, but I do have the specific statutes, which highlight the issues with contracts that drive our request for this bill. The first one I'll highlight is 53-216(1). It says a supplier shall not fail to provide each wholesaler of the supplier's brand or brands with a written agreement which contains the entire agreement with the wholesaler and designates specific exclusive territory. Nothing in that sentence requires that it be freely negotiated or executed or enforceable, as against the wholesaler. What's more important, and now that I'm done with time, I'm happy to finish two more statutes.

LOWE: Thank you, Ms. Silke. Is there a question? Let's see. Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Lowe. And this is the real Senator Cavanaugh. Thank, thank you, Ms. Silke. Could you tell us what those other statutes are?

VANESSA SILKE: Yes. OK. So what's more important, there's one that says provide, but what's more important is we have two definitions. One is under 53-204, agreement shall mean any agreement between a wholesaler and supplier, whether oral or written, by which a wholesaler is granted the right to purchase and sell a brand or brands of beer sold by a supplier. Many of these agreements track issues that we've highlighted, track exactly what this statute allows for. And that allows for a wholesaler to claim franchise protections, even if nothing was ever written down. The other one that we want to highlight-- I'm get back up here-- is 53-103.14. And this one's really important. It talks about franchise or agreement defined. One, the, the purpose of the franchise laws for beer wholesalers in Nebraska is found in subsection one. It talks about what a franchise agreement is, is being a commercial relationship of definite duration or continuing indefinite duration, which is not required to be in writing. So yet again, we have a statutory control that says oral contracts or those that you've never discussed are enforceable. What's more important too, is when we look at subsection 4 and 5 of 53-103.14, and this, again, cuts at the policy that no longer exists here in the state. And this says a relationship by which the operation of the wholesaler's, wholesaler's business is substantially associated with the manufacturer's brand, advertising or the commercial symbol. We've heard over and over again today, craft beer is less than 4 percent of the market. Which one of its 17 wholesalers can say that any one of my clients is substantially associated with their brand or with their business? Subsection 5: a relationship by which the operation of the wholesaler's business is substantially reliant on the manufacturer for the continued supply of beer. Again, less than 4 percent of the market. That was the whole policy. And that's why we have a specific carve out for a definition of a small supplier and a small supplier contract, small producer contract, and that applies to anybody in-state or out-of-state. If you're under 20,000 barrels, you don't fall within 53-103.14 policy. So you're going to have the right and a reset button, in early January 2024, to negotiate those agreements on a direct basis, in line with the statute. So with that, I'm happy to take any questions and thank you.

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LOWE: Thank you, Ms. Silke. And thank you, Senator Cavanaugh. So.

BREWER: We're going to, we're going to shift from the lawyer to lawyer thing. So if, if you put this in layman's terms, what are the consequences if we don't pass this bill?

VANESSA SILKE: We're going to continue to have people who are lucky enough to get a distributor say yes, not everything's in writing. The distributor can claim all of these protections. So when they don't do something like clean the lines or rotate the beer, things that are really important immediately to retailers, by the franchise laws, my clients have to give written notice, then wait 30 days for a written plan and then 90 more days to cure. If the bar down the street hasn't cleaned the lines because the wholesaler isn't doing this or rotating the product, you have to wait, right out of the gate, 120 days before you can even try to do anything. That's where we get to this cost of litigation and time frame that other testifiers shared. That's what's embedded in this statute. Now, notice and cure provisions make a lot of sense, in concept and they're perfectly reasonable to negotiate. But this time frame by statute cannot be waived. So what we're asking for is the right for a reset button, unless both parties agree, for all small producers to have this right to negotiate. And counsel for ABDN posed to me the question, well, what if his clients just cut and paste all the franchise laws into an agreement and say, sign it or else? Well, my clients aren't forced to accept that. And what I believe and what I think Senator Vargas believes is what's more likely to happen is they're going to figure out that on a case by case basis, they're probably better off negotiating a limited-term, tailored contract, instead of relying on this one-size-fits-all. The other issue that we have with enforcement is under 53-216. There are 19 provisions about what a supplier can't do. Under 53-217, there are three general provisions of what a wholesaler can't do. That's it. And last year's bill, we, we offered to balance them out, and that was roundly rejected. So this year, we simply did a carve out and said, give us a reset. Let us, let us negotiate those contracts going forward, as long as they're a small producer. Happy to take any other questions.

BREWER: Thank you.

LOWE: Thank you, Senator Brewer. And are there any other questions?
Senator Hughes.

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HUGHES: Thank you, Chairman. So if I am a winery or a craft distillery, do I just negotiate a small business contract directly with the distributor?

VANESSA SILKE: You figure it out. The statutes don't dictate, other than what your license provisions require. So, for example, if you're a distillery and you're working with a distributor, they have to operate within the scope of their license. So the distillery has to go through the wholesaler to get to the retail market. They can't sell to retailers that don't have a license. But beyond that, there's no franchise laws that govern exactly how those arrangements work.

HUGHES: Thank you.

VANESSA SILKE: And I want to clarify that for another testifier. I think they said there's no other franchise laws in statute that's specific to alcohol.

LOWE: Thank you, Senator Hughes. Any other questions? Seeing none, thank you for limiting your testimony, because I see that there are others here that could have testified.

VANESSA SILKE: Yes, That was the other thing is--

LOWE: I, I appreciate that.

VANESSA SILKE: --we, we tried to trade off how much time to spend and that's why I spent a little more time up here. Thank you for the questions. We really need your help with this. And so we'll continue to work with anybody. But this is why we need the Legislature's help. So thank you.

LOWE: Any other proponents? Seeing none, opponents? Good evening.

JOHN FORDHAM: Good evening. It's not what my notes say. My notes say good afternoon.

LOWE: I hope it doesn't say good morning.

JOHN FORDHAM: Yeah, I hope so, too. Well, good evening, Chairman Lowe and members of the General Affairs Committee. My name is John Fordham, J-o-h-n F-o-r-d-h-a-m, and I am a Nebraska beer distributor, located right here in Lincoln, Nebraska. I serve about seven Nebraska counties in southeast Nebraska, at about 750 licensed retail accounts. As I've listened for the past 3 hours, I, I, I think back about all the time I

spent in our buying retail grocery stores in, in Nebraska. And as I walked down these aisles, the beer aisle, particularly, I think about how well the Nebraska three-tier system in the franchise law has facilitated the health, welfare and safety of Nebraska citizens, while really providing an unprecedented amount of consumer choice when it comes to beer products. I mean, it's truly, truly amazing. It's the Nebraska beer franchise law, today, that gives Nebraska distributors the ability to operate independently, without the undue influence by its major suppliers. It gives us the freedom to choose to do business with who we want. And that means even Nebraska beer-- craft brewers that may offer products that compete with our major suppliers. And we can do that without fear of reprisal from our major suppliers. The Nebraska franchise law incentivizes the Nebraska beer distributors to be brand builders and to invest behind, apply capital to these Nebraska craft brewer brands and others. And it gives us that opportunity to work in partnership and build equity for these brands. The Nebraska franchise law is vital to sustaining a viable and diverse distributor network that can, that can continue to support the three-tier system and its members. Weakening the franchise law will do one major thing and it's something like-- I, I feel like I got whiplash a little bit today, listening to the, to the conversation about the need for more distribution or more distributor options and the, and the lack thereof. And so, the Nebraska franchise law protects our ability to, to distribute and represent our, our partners, our manufacturing partners. If you eliminate it, what's going to happen is you're going to have fewer distributor options. They're going to be located or concentrated in the high metropolitan population areas and you're going to have diminished service in the more rural communities. Now, think about that. We talked about that a lot today, didn't we, in, in LB375, when, when, when Senator Lowe so eloquently discussed how difficult it is for people to be able to get product when it's 400, 800 miles roundtrip. Well, that's coming through Nebraska liquor wholesalers. They're not governed by a franchise law. And you can see the results, is where are they located and how many are there? Somebody mentioned there's 17-- I see this-- 17 family-owned distributors in the state of Nebraska. There are three licensed distill-- wine and liquor distributors, all located in Omaha. Zero of them incorporated in the state of Nebraska and zero of them family owned by Nebraskans. I'm willing to take any questions you have.

LOWE: Thank you, Mr. Fordham. Senator Raybould.

RAYBOULD: Mr. Fordham, did you have anything else you would like to add to your testimony today?

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JOHN FORDHAM: That I really enjoy doing business with B&R stores.

RAYBOULD: That's too kind.

JOHN FORDHAM: I didn't know if that was going with the Axtell thing. I was hoping that he was going to ask me who the three-time gold medal winner was.

RAYBOULD: But I guess from your perspective, the way that the franchise law is currently written, it allows the distributors to, to go beyond the urban centers, right?

JOHN FORDHAM: Yes. Well, within our geographic footprint. And it was interesting, because there was some conversation about being in a and I'm going to use the word trap, but I've had the great pleasure of doing business with a number of local Nebraska craft brewers. And I still do and they're my friends and partners. But you know what? There's been a few of them where we just didn't get along. They, they had expectations and so did I. And it's a little bit like a marriage and it just didn't work out. And they said they didn't want to be hitched to me anymore. And I let them go. And I know that there are at least a dozen other instances where distributors-- if, if you're doing business with somebody and you're not happy about it, you, you, you break apart. And that's happened all the time. And it's-- so the discussion or the, the examples given by some of the Nebraska craft brewers-- I've been doing this for 35 years. Seems impossible, right, but I have been. And I have no-- I have not heard of one example where somebody wanted to be released and has not been released. So to me, it's more of a solution looking for a problem. But, you know, that's, that's my experience.

RAYBOULD: OK. Thank you.

LOWE: OK. Thank you, Senator Raybould. Senator Hughes.

HUGHES: Thank you, Chairman. OK. So there's 17 beer distributors across Nebraska.

JOHN FORDHAM: Yes, ma'am.

HUGHES: What's the overlap? Like, in Lincoln, how many are there?

JOHN FORDHAM: There are three.

HUGHES: OK. And it sounds like you're like, well, we're not getting along with the crapper or you'll let them out of the contract. But you don't have to, kind of, is what I'm getting from this.

JOHN FORDHAM: No. And they-- well, that's true. I don't have to let them out, but it's not in my best interest to continue to invest behind a brand that I don't believe in. And it's also not in their best interest, either. Right?

HUGHES: But the craft brewer brand is pretty tiny, I'm imagining, for your business.

JOHN FORDHAM: Well, let's think about that for a minute. So I think the carve out is 20,000 barrels. So 20,000 barrels in today's dollars, if you're going to, if you're, if you're going to, if you're going to synthesize that into dollars, that would be \$750,000 in sales. That's not an immaterial amount. And so--

HUGHES: But, I mean, for Nebraska, today, it's 4 percent of all of the beer. Correct? For Nebraska, because I've heard that number a thousand times.

JOHN FORDHAM: The craft brewing industry represents 4 percent of the total Nebraska--

HUGHES: Right.

JOHN FORDHAM: --beer volume.

HUGHES: So if you just, in general, every-- each of you has 4 percent craft brewers, if you kind of evenly-- I mean, it-- of course that's going to vary, but on average, every distributor would have 4 percent, right?

JOHN FORDHAM: No. I don't think so. Because what-- well, if you take an average but you really you mean, you know, a six-foot guy could drown in a river of four-foot deep average, right?.

HUGHES: OK. I guess my point is. It's-- I would think these franchise rules are more for the big guys. The Coors, the Busch Light, the what everybody buys. And so your emphasis is doing those guys right because that's the bread and butter. And if I'm-- I'm just going to use Bottle Rocket because it's in Seward.

JOHN FORDHAM: Sure. Great beers.

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HUGHES: And they're not here. It's fine. I'm Bottle Rocket and you're-- because I think you probably do my area.

JOHN FORDHAM: I do.

HUGHES: And I've, I've got a contract with you and you're, you're not meeting what I deem-- and that can be questionable, right. Everybody has their thing-- doing me a very good service. What is wrong with having a little bit of competition? I might go to your number one. I might go to number two or try number three. Like if you're-- and if you're setting up those relationships, I guess-- what's the-- why are you worried about something like a negotiated contract with Bottle Rocket, just you and us and set it up and then, I can get out in 30 days, you can get out in 30 days, we're good. Instead of having it a little lopsided, it just seems like it's a little lopsided toward you.

JOHN FORDHAM: In your example, as it includes me, if you want to leave me, we're done. You don't need to give me 30 days' notice.

HUGHES: But that's you. By law, you don't have to let me go.

JOHN FORDHAM: By law, I don't have to.

HUGHES: Right.

JOHN FORDHAM: But--

HUGHES: --and we're talking about the law.

JOHN FORDHAM: --but you had mentioned that, that you thought, based on what I said, that the Nebraska franchise law benefits the larger brands, when in fact, that's a complete opposite. Because the largest beneficiary of the Nebraska franchise law is the smaller brands. Because it's the larger brands that would come in and, and try to influence my decision on whether I want to represent Bottle Rocket. And that happens. And so, that's why you see so much-- that's why you see consolidation of the, of the liquor companies in Omaha. That's why you see-- think about this: this is an interesting statistic. Out of the 70 craft brewers in Nebraska, 70, I think three of them are with a Nebraska wine and liquor distributor. Think about that. They've all chosen, right. They have their option.

HUGHES: So a craft brewer--

JOHN FORDHAM: It's freedom of choice.

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HUGHES: --can go to a liquor or wine distributor.

JOHN FORDHAM: They can go wherever they want, Senator. And that's the beauty. They don't have to come to me or any of us. They can go to a, a, a wine or liquor distributor in Omaha. But there are so few options up there and they're all consolidated in the eastern part of the state. And as Senator Lowe stated earlier, they can't get their product to western Nebraska because they have to drive 900 miles. But because we have our franchise law, we're protected. We can choose to do business with you and Bottle Rocket without fear of reprisal. And that's the beauty of it and the, and the three-tier system. They're interlocked and it's, and it's a pretty terrific proposition.

HUGHES: I've, I've just got to wrap my brain around this. This doesn't seem quite right to me, but I'm going to-- I'll deal with it and dig into it later.

JOHN FORDHAM: I'm in Seward on Wednesdays. We'll talk.

HUGHES: Fine. We'll go have a beer at Bottle Rocket.

LOWE: Thank you. Senator Hughes. Senator Brewer.

BREWER: Thank you, Mr. Chairman. Well, first off, do you know who the Olympic--

JOHN FORDHAM: Gary Anderson.

BREWER: And do you know that Gary Anderson used to sit in one of these chairs? He was a state senator?

JOHN FORDHAM: I did not know that.

BREWER: Stick around me. I'll teach you a few things.

JOHN FORDHAM: Looking forward to it, Senator.

BREWER: OK. So basically, what you're saying here is there's really not anything about this law that would, that would negatively affect the big-- Coors, Anheuser-Busch.

JOHN FORDHAM: They carve it out for the, for the smaller guys.

BREWER: All right. Thank you.

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LOWE: Thank you, Senator Brewer. Any other questions? Seeing none, thank you, Mr. Fordham.

JOHN FORDHAM: Yes, sir.

LOWE: Others in opposition?

ADAM BARNEY: Adam Barney, A-d-a-m B-a-r-n-e-y, legal counsel for the Associated Beverage Distributors of Nebraska. I'll start with the red herring. It's-- this bill is not about agreements being in written and writing. The franchise laws already require, require these agreements to be in writing. This bill is of utmost concern to our members, all of whom have built their businesses in reliance on the franchise laws. While we've had some-- have to leave here as the day has progressed long, at some point in time, we had 15 of our 17 members represented here today. To minimize repetition, I have been asked to summarize the membership's opposition to this bill. While this is my first legislative session on behalf of ABDN, I have been practicing franchise and distribution law my entire career. One of the primary purposes of franchise relationship laws is to incentivize investment in local communities. Beer distributors, motor vehicle dealers, heavy equipment dealers, fast food and other franchisees all have these types of laws. That is because in each of these unique relationships, a party makes investments and helps build brands that they do not own or control. To encourage that local investment, the Legislature has passed these franchise relationship laws, requiring good cause for termination or non-renewal, as well as notice an opportunity to cure. If not protected by good cause, the incentive to invest in someone else's brand is gone. If not protected, you can expect that some beer distributors will be unable, fiscally, to contract with craft brewers. To do so would be a reckless business expenditure on behalf of a brand that could leave tomorrow without any reason. If LB404 or-- the business reality is that without these protections, craft brewers are likely to have fewer options. And those distribution partners that are willing to contract with craft brewers will not have the incentive to invest the time and money to build a brand that can leave them without cause. If LB404 passes, craft brewers will be coming back to you again, claiming they need another change to the laws because they either cannot get distribution partners on reasonable terms or distributors are not doing a good job. It was a never-ending attack on a system that, importantly, already works. Of additional concern, if LB404 passes, craft brewers will be able to, among other things, retaliate against distributors if they report them for violations of the laws. Those are some of the protections that Ms. Silke testified

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to, that exist in the statute that restrict suppliers. Craft brewers will be able to enter into agreements with multiple distributors in the same territory, removing exclusive territories that are fundamental in the industry. Craft brewers will be able to interfere with other, other brands that a distributor is carrying. In January-- if I may finish, because my light is turning.

LOWE: Thank you, Mr, Barney. Are there any questions? Yes.

RAYBOULD: Mr. Barney, could you please finish?

ADAM BARNEY: Thank you, Senator. I'll wrap up quickly.

LOWE: Thank you, Senator Raybould.

ADAM BARNEY: In January, the president of Brickway told you without distribution, Brickway wouldn't have ever reached the success that we've had so far. Last session, counsel for the Craft Brewers stated Our most successful breweries have good-- very good relationships with their distributors. ABDM members want to keep those success stories coming. But LB404 is counterintuitive to craft brewing interests. This bill is not good for craft brewers, for independent, family-owned distributors in this state or for Nebraskans, who enjoy a diverse array of beer that presently sits on our shelves. I welcome any questions on the franchise law issues that I know, Senator Hughes, you have, on the written contract agreements and if anybody would like to ask about the discussions that we did have in lead up to this bill.

LOWE: Senator-- Vice Chair Hughes

HUGHES: Thank you, Chair. OK. So, since you're on franchise laws, why then, does the wineries and the liquor, they can set up small con-- like contracts between the two parties and this is so different?

ADAM BARNEY: They can. They can set it up. I don't know why the bill was originally passed with just beer in mind, but it was. And the fact of the matter is, I mean, the end result is that it's led to this consolidation. Right.

HUGHES: How many liquor distributors were there 30 years ago, then?

ADAM BARNEY: I, I couldn't answer that question for you. But I, but I can tell you, there's this--

HUGHES: Three or four [INAUDIBLE] hasn't changed.

ADAM BARNEY: --there's this perception out, there's this perception out there that all of the distributors of these large businesses that have the power to negotiate all of these provisions and it's just not the case. And if you look at what this bill does and how it defines things, it-- look at both parties. A small producer is 20,000 barrels a year. If my math is correct and I think it is, that is 6,600,000 cans of beer a year. That's not a small business. That's a lot of beer. Are there some large distributors in our membership? Yes, there are. There are also distributors in our membership who distribute less annually than what a craft-- a, a small producer produces annually-- distribute less annually than what a small producer produces annually. There are nonmembers of our association. Distributors in the state, there's not just 17. I think there's actually 27 distributors in this state that distribute a few thousand gallons are tiny in comparison. It's not some David versus Goliath situation. And the reality is the smaller, the smaller brewers or the smaller distributors, they don't have the power to negotiate these protections that are vital to building in someone else's brands. And they also are the ones who don't have the ability to take on the risk of those investments. Right. And so what you will see, as Mr. Fordham testified, is you're going to see consolidation. You're going to see the smaller distributors that handle the, handle the panhandle, consolidate into what you see now with the, with the industry that doesn't have franchise laws.

HUGHES: OK. I would see that if we're doing it for all, but we're talking about 4 percent of all beer distributed in Nebraska. So, I mean, you could take 4 percent off the table. Nothing's going to change. You're going to have the 27 distribute-- you know what I'm saying? Like, that's where I'm like, I just don't understand why we're so hesi-- I mean, it'd be one thing if we're looking at this legislation to take it out completely, for all of it. Right. Am I missing something?

ADAM BARNEY: I, I think yes. The-- well, so the Panhandle is serviced by a smaller number of distributors, as, as you might imagine. Right.

HUGHES: Right.

ADAM BARNEY: And, and are less able to take on these risks of these brands without good cause termination and protections. OK. But that doesn't mean that consumers in the Panhandle don't want the craft beers to be distributed. They do. They absolutely do. And somebody is going to want to have that business opportunity and they're going to

want to take over that territory. And to take over the territory, they need infrastructure in the area. Right. And so, it's going to lead towards somebody else saying, well, I-- if you-- if you're unwilling to take on the risk of those craft brews that I know there's a business opportunity there, why don't I just buy, buy you out and, and take on that, take on that territory, use your infrastructure that's in place.

HUGHES: I don't-- this is how I look at it. I have Bottle Rocket-- we're just going to use Bottle Rocket. I don't own any part of Bottle Rocket, but-- so I'm-- I have my beer and I've got three choices and party A is not doing what I think he should be doing or she-- and what is wrong with competition? And what is wrong with me having a contract with that person and then saying, you know what? Party A, you're not fulfilling your end of the bargain. I'm going to leave you and I'm going to go to, you know, party C and have them do it. Like, what's wrong with a little bit of, hey, distributor, you got to do your job well to keep the business, because it feels like this errs on I have you. You're mine forever. Too bad.

ADAM BARNEY: So two things. One, to address your question, if that's the situation that can exist, the incentive for the distributors to spend money on those brands, to build those brands, who can then come and say, well--

HUGHES: But are they spending that much money on a craft brewer brand? Like, you're spending the money, you know, touting the new Coors Light, whatever. I mean, they're not going to spend that much money on such a small-- right? I mean, I'm a beer distributor. I probably-- I can't even imagine how many flavors there are. I don't even like beer. I don't even know why we're talking about this. Anyway, sorry.

ADAM BARNEY: The second, the second aspect.

HUGHES: Sorry. I don't, I don't like beer.

ADAM BARNEY: --the second, the second aspect of it, though, Senator Hughes, is that it-- it's this false narrative you're hearing, which is you can't terminate for any reason and that's not the case. What--

HUGHES: You have three, three-- no, nine-- you have to have 19 things, right, that are--

ADAM BARNEY: No, you don't. You have to have one thing.

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HUGHES: --oh, OK.

ADAM BARNEY: You have to have one thing and that's a material breach of a reasonable term. If there's a material breach of contract, if a wholesaler materially breaches the contract, they then give notice of that breach, just like in any contractual relationship. OK. So-- and then, there's the opportunity to cure and the good cause. Right. I mean, but good cause is material breach. That's the trigger. So what, what really needs to be done here is look at and negotiate, not the good cost termination. Those are, those are the vital aspects of our relationships. It's negotiating what should those material terms be? What are the material expectations of this relationship? And if you're not living up to the material expectations of the relationship, that's when termination can happen. And I'll, I'll add like-- to some of the questions earlier, about, well, if you're letting them out and that's fine and it's not needing-- well, these laws are not in here to protect for when things are going well, for when people are being reasonable business parties and they're talking to each other and deciding, well, you're not working out well, this relationship is not working. Right. This-- these are in place to protect from the bad actors, to protect from the nightmare situations and the nightmare scenarios. These are the fallbacks in Nebraska law. And the, the problem we've been have-- we've had in trying to negotiate this, is we can't find what the problem is. Right. We're asking what's the problem at issue? And it's-- and it can't be articulated. It's just a we, we want this change. And we've worked-- we worked with the craft brewers last week or the last two weeks. The suggestion that we've refused to negotiate with them is not true. And I'm happy to provide the email exchanges with the committee. We're happy to work with this, but to, to address what needs to be legislated, we need to have an idea as to what the problem is. And right now, we're not seeing a problem throughout the industry.

HUGHES: All right. Thank you.

LOWE: Thank you, Senator Hughes. Any other questions? Senator Brewer.

BREWER: All right. Trust me. If we could let you go, we'd let you go, because it's getting late here. But let's go back to, to the earlier testimony. I think it was Scott with, with Kros Strain, talked about how he was trying to set up these beer dinners. So I suppose you get, like, a stout and a steak or, you know, an IPA and, and a fish or whatever it is. But-- and then, they deliver-- they don't deliver what

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he needs to, to put that on. So he could, he could just ad hoc end that agreement and move on to a different, different distributor?

ADAM BARNEY: Depending on what his contract says and I assume there's something about-- for commercially reasonable-- that he could-- what he would do is give notice that you've breached the contract. And say, you've, you've failed to follow this provision in, in not doing X, Y, Z. And then there'd be an opportunity to cure. And the, the example from the gentleman from Kros Strain was that it didn't just happen once. It happened the next month, it happened the next month, it happened the next month. Well, that's, that's the you didn't cure your breach and then, yes. You can walk away from the relationship.

BREWER: And you don't have to hire an attorney and worry about getting sued by a distributor or anything like that?

ADAM BARNEY: I mean, everybody worries about that, right? But no, if a relationship's working well, no, you don't. These are, these are typical notice, you're-- you've failed to comply with a contract provisions.

BREWER: OK. Thank you.

LOWE: Thank you, Senator Brewer. Any other questions? The attorney is quiet on the [INAUDIBLE]. We-- thank you, Mr. Barney.

ADAM BARNEY: Thank you, Senator.

LOWE: Others in opposition? Can I, again, thank the opposition for condensing down their number of testifiers? Those in the neutral.

HOBERT RUPE: Good evening, night.

RAYBOULD: Yeah.

HOBERT RUPE: Hobert Rupe, H-o-b-e-r-t R-u-p-e, executive director of the Nebraska Liquor Control Commission. And here I thought I wasn't going to have to testify on this in here. But every once in a while-- it's because we have really, not a lot to do with the brand business. I mean, the law, it's primarily the thing. But I just had to come up here to maybe, explain a couple of things and just to make sure, because some missed facts were out there. You have to remember, Senator Hughes, the farm winery acts and the craft brewery acts didn't come out until after this thing was already drafted. So those first-- but those-- this came in, I believe, in 1986. Those-- I believe the

first one of those was in 1988 and then, following after. So these sort of pre-date that. With-- you heard about three liquor wholesalers. Technically, there are more than three liquor wholesalers. Some people have some other wines or some smaller ones, but there are-- the three big ones are Republic National, Southern Glazer's and Johnson Brothers. All of those are, when I first became director a long, long time ago, were all independently owned by Nebraska residents. They are now all corporately owned. They're at least-- if not national, they are heavily regional, in the case of Johnson Brothers. There used to be, I believe, when I first started doing this as the-- at the AG's office, I think there might have been five. There were five of them. Now there's three of the big ones. So you've seen steady, steady consolidation at the liquor wholesale house. That was, also, primarily, a lot-- a big driver for that was response and you saw huge consolidation on the national liquor and wine distribution markets. You know, people remember Seagram's used to be its own brand. Now it's part of, I believe, which one are they, they keep changing back and forth. So other than Bacardi, which I think is the last large independently owned one, almost all of your liquor houses are huge-- are parts of huge issues and brands. And sometimes, you will see, you have-- and you will have market disruption. Right now, at the, at the Commission, I'm currently dealing with some major market disruption. Anyone who is aware of the Sazerac portfolio of whiskeys: Pappy Van Winkle, Blanton's, some other ones going down. They recently, at a national level, moved from Republic National, in the 21 states where it was easy for them, without franchise law, like Nebraska and you went over to Johnson Brothers. And that's millions and millions of dollars of investment that Republic would have made in trying to service those brands. Now they don't have them. I-- someone said that Republic recently laid off 40 employees because of this. Bacardi jumped ship a couple of years ago, as well. And so, there-- you have a lot more disruption when these major brands can just move back and forth. And as I said, the primary reason that, you know, at least from my position, why you had our small wholesalers-- liquor wholesalers merge and be bought out by bigger guys was because, you know, Southern, for instance, I'll give you an example, was trying to get a footprint in almost any state they could, where they-- where it wasn't a control state. Because then, you know, they were being stuck between the, the rise of the mega retailers, like Walmart and Sam's Club, and the consolidation on the liquor side. And so, you saw that same consolidation on the liquor side. So that's one reason we have far fewer of them. So I see I'm in the red. I'd be happy to answer any technical questions.

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LOWE: Senator Hughes.

HUGHES: You know it. OK. So you were saying that the beer-- it was, it was like, 1984 or whatever and then the-- '86 and then the wine and the distilled [INAUDIBLE].

HOBERT RUPE: The craft brew-- the craft breweries came after the change in this bill. The franchise law predates them.

HUGHES: OK. So in your opinion, does it make sense to keep the craft brewers under this model?

HOBERT RUPE: Well, we keep-- we, we treat all suppliers underneath this. And so-- are, are subject to the franchise law if they are a beer. And remember, we have very little role in this.

HUGHES: No, I know you do. But as this is proposed--

HOBERT RUPE: But, but this would not just be applicable to-- if you read the stat-- if you read this bill, it's not just the Nebraska craft breweries. It is any supplier under 20.

HUGHES: It's craft breweries.

HOBERT RUPE: So you're, you're talking of hundreds--

HUGHES: Right.

HOBERT RUPE: --of craft breweries all across the nation.

HUGHES: Under 20,000 bushels-- or bushels-- barrels.

HOBERT RUPE: And that's going to be-- under 20,000 barrels. That's going to be a lot of those, those, those small independent craft breweries will have, will have-- they will have what's called a shipping license from us. We will issue them a shipping license. And they'll have an agreement with the Nebraska wholesalers or the Nebraska beer wholesalers. This statute would apply more-- would apply to them, as well. If I'm a-- I'll use as an example, Keg Creek Brewing, in Glenwood, Iowa, where I'm from, originally. My former junior high art teacher is the brewer there. They have a distribution contract with a Nebraska wholesaler. They produce less than 20,000 barrels, so they would be treated differently than a slightly larger one of 25,000 barrels. So you're, you're, you're-- you, you keep seeing that-- you know, if you read the statute, it's going to be

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applied to all producers. And in this case here, we would continue then, what we call first chair entities, which would be an in-state producer or an in-state shipper, if they qualify under that size. So it's more than just Nebraska's brewers.

HUGHES: But do you-- I guess, do you see an issue with that, with the smaller?

HOBERT RUPE: It could be. The issue that's different between liquor and beer, also, I mean, without going too deep into the woods, is the territory agreements. Beer has territory agreements. That's one reason why, for instance, Budweiser-- you know, Quality Brands in Lincoln has a certain geographic territory for-- a lot of your liquor houses have statewide plans, deals. I mean, so if I'm, if I'm selling Bacardi--

HUGHES: One store in Seward [INAUDIBLE].

HOBERT RUPE: I'm-- you, you have rights for the entire state. And so you don't have the, the breakdown, where you actually have the local entities, for the beer guys, handling it. It's all going through one, through one, one host.

LOWE: OK. Thank you, Senator Hughes. Any other questions? So let's say there's a beer distributor, we're coming up on St. Patrick's Day--

HOBERT RUPE: OK.

LOWE: --carries, carries a popular stout. And that beer company has the interstate, you know, just along the interstate. And-- but then, there's also a liquor distributor, because they have statewide distribution.

HOBERT RUPE: Yeah.

LOWE: Can establishments buy from either one of those?

HOBERT RUPE: No, because your territory french-- under beer law, beer territories are exclusive and so you could not give-- you would have to carve out some of the exemptions. The, the supplier would have to have those carved out. And the reason for that is if beer-- and you know, people forget this a lot of times, unlike spirits and wine, for the most part, unless they are stored horribly, there is no real expiration date on them. There's an expiration date on beer. And so, what will happen a lot is if a beer is going out of code, then you're going to have to go to the wholesaler who sold it and try to get a

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credit back from them. If you've got multiple wholesalers covering an area, they're both going to do this: it's not our beer. So that's one reason why you have to-- beer territories are exclusive in this territory, those issues.

LOWE: Thank you. Senator Brewer, you have a thought.

BREWER: Thank you, Mr. Chairman. All right. What I'm trying to understand is who has oversight? Who has authority? Who, who controls this?

HOBERT RUPE: This is primarily-- there, there is a legal provision where they can go to the courts. There is also some limited roles for the Attorney General within the Liquor Control Act, under the, under the franchise law. I can't remember-- and the only reason I even know about those is I was involved in one of those when I was at the AG's office, involved in that. In this case here, you had a liquor wholesaler, Finocchiaro Wine Company, had the exclusive rights to Warsteiner, a German beer. And Warsteiner wanted to give up-- wanted them to-- wanted to give their-- to break up Nebraska. They wanted to do exactly-- they wanted to put the western half out of, I believe, North Platte. And they were going-- and I was involved in the-- as the Attorney General's Office, sort of, to try to negotiate a settlement on it. And I actually talked to Mr. Finocchiaro, and I said, when was the last time you sold a six-pack of this west of Grand Island? And he says, well, I never have, but I might want to. He agreed to give it up to somebody else and made it, made it fine. So there is a role for the Attorney General's. It's been a long time since I looked at that statute. This is primarily a interplay between the actual-- the parties at play.

BREWER: So it's not going to be something you have jurisdiction on.

HOBERT RUPE: No. I have very, I have very little jurisdiction, jurisdiction. Every once in a while, depending upon how we get rolled out, I might get called in as an umpire on franch-- on territories and that kind of stuff. But other than that, not really.

BREWER: Thank you.

LOWE: Thank you, Senator Brewer. Any other questions? Seeing none, thank you.

HOBERT RUPE: Thank you.

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LOWE: Any other in the neutral? Senator Vargas. Oh, LB404. There were four letters that were proponents, zero opponents and zero in the neutral.

VARGAS: Originally, I was going to say, I'm standing between you and finishing up, but I know that.

HUGHES: No, that's not true.

LOWE: No, no, no, no. We got one more.

HUGHES: You're lying.

VARGAS: You're lying,

HUGHES: Liar.

VARGAS: I appreciate everybody. A couple of things I want to make sure to get in the record here. You know, I was frustrated listening to some of the opponent testifiers, largely on behalf of the Craft Brewers Guild. A hired hand saying it's not good for craft brewers, when craft brewers are explicitly stating--

HUGHES: Asking for it.

VARGAS: --they're asking for this, is extremely disrespectful to this committee and it's just ridiculous. And it's not the first time that I've run into this. I've run into this-- I've dealt with some franchise laws and in, in other subject matters, specifically with dealer models. But I just wanted to state that because a couple of these quotes, saying that this is a, a never-ending attack is, is, is just ridiculous. That is not what this is. If you're looking at the language-- or if you're looking at just the, the, the-- the argument that is being made is that they want the ability to have freely negotiated contracts executed by both parties. And this is not even to level any type of playing field. This is if you can't agree to change the laws that currently, are in existent-- franchise agreement laws, then let's agree that there's these smaller contracts that exist between the different entities. They both have to agree to it. I remember saying this last year and I felt like I was, I was tearing out my hair, because we're saying that we want two parties to agree to something. And right now, that level of-- I guess, it's not equality, it's not even equitable, where they're just asking in certain instances and trying to solve this problem of they can't get out of agreements and every burden is on the craft brewer themselves. And

this is something that has historically put into place. I mean, the 1960s and '70s, many of these different types of legislation would be put in for different, for different subject matter and sectors were put into place. And it was meant for a good reason. You know, I'm not trying to-- we're not trying to-- me, specifically, introducing this bill, I'm not trying to upend that system. Otherwise, we'd be talking about amending the language specific to these franchise agreements. We're talking about allowing these agreeable contracts to exist. And because-- and somebody said this. I can't remember. Maybe it was the, the guy that also said this is a never-ending attack, that they built their businesses on this law. This is the problem that we run into. I got a year and a half left. We build-- we created legislation to enable, to enable our economy to work for specific industries. And if they say they built this industry on this law at a specific time, times do change. And I'm not even talking about changing it in the way that they are fearing that we're changing it. I'm trying to make it so that this is a-- somewhat, of addressing an issue and a problem that were brought by some of these stories that you heard from some of the brewers, the craft brewers. I just wanted to make it really clear, because all-- this is also educating you. It's also educating the public, that we have small businesses saying that they have a problem of getting out of contracts and they have a problem with the burden that is always on them. And they want to be able to have these freely negotiated contracts and this set aside, for what constitutes 4 percent. And I do appreciate you, Senator Hughes, for, for pushing on this and getting this. It is 4 percent of the market. This is not going to upend the entire industry. They want the ability to split ways when things don't work out. That's why contracts are needed. That's why this legislation is needed. I believe the amendment addresses some of the concerns that the Director even brought up and he hadn't seen this. So this is something that is separate, but my understanding is that it will address those. A contract is needed for both entities to be better protected. I think you heard, from some of the opposition, that it was about their protection. Their protection. Where's the protection on both sides? The part that is really important, this bill could be drafted where it's just, sort of, the other side pushing and saying there is more protection and you need less protection. They're asking for equal protection. That's why they're wanting these contracts to be able to be set aside in law. The ability to create them, not even changing the franchise law agreements explicitly. Nobody is eliminating anything with this industry. So I'm asking you not to believe in this, sort of, the sky is falling argument. And for those of you that are new senators, this won't be

the last time you hear that argument. My ask to you is this: take this at face value. The face value is there is a problem. You're hearing it from some of the craft brewers and it's a representation from this association. And if you do nothing, you are agreeing that one side can dictate the terms for the other side. And we don't represent them. We represent whether or not there is a problem that is addressed, on behalf of a growing industry, that represents 4 percent of this entire industry. I'm asking you to work on me-- on this legislation, because otherwise I'll bring it back next year. Somebody else will keep bringing it back. Because in the meantime, many of these craft brewers are going to have some issue that arises or not know how to get out of a contract or the due cause or the good cause is going to be solely on their burden of proof. And they're going to continue to be the ones that are held with, well, the responsibility of ever proving something is wrong, without any real recourse in the current law on how to escape that. So I appreciate your time. I'm happy to answer any questions that haven't already been answered. And I appreciate you taking such a long time tonight.

LOWE: Thank you, Senator Vargas. Are there any questions? I just had one that just came to me, so I'm sorry. I hate to, I, I hate to belabor this.

VARGAS: No, you're fine.

LOWE: But let's say we, we do this and, and a, a, a craft brewer separates themselves from the distributor. Who is responsible for the product that is in the field because beer has an expiration date. Is it the distributor or is it the craft brewer that has to go collect everything?

VARGAS: My best answer to you is if we were just changing the franchise agreements, there would have to be something we explicitly state in this, in law. But part of this would be made as part of the contract, right? This would be created within that separate contract between both entities. So that's my best understanding.

LOWE: OK.

VARGAS: Yeah.

LOWE: Thank you. I-- it just came to me. So.

VARGAS: Yeah. No, it's a good, it's a good question.

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LOWE: All right. Any other questions? Senator Vargas, thank you for this.

VARGAS: Thank you. Have a great night.

LOWE: This closes the hearing for LB404. And we will begin with LB148.

HUGHES: Last bill.

JACOBSON: Just so you know, the testifiers that are behind me, that came over 300 miles--

HUGHES: Oh, that's fair.

JACOBSON: --to testify, where--

HUGHES: They can say whatever they want.

JACOBSON: --looked at the, looked at the calendar this-- last night and said we were up first at 130. So they got here this morning to testify at 130 and they're still here.

HUGHES: Has nothing to do with the Vice Chair.

LOWE: First of all, I've seen them sitting in here all afternoon and evening, so thank you very much. With that, Senator Jacobson.

JACOBSON: It's the sympathy, it's the sympathy piece I'm looking for. OK.

LOWE: Senator Jacobson, LB148.

JACOBSON: Thank you, Chairman Lowe and members of the General Affairs Committee. My name is Senator Mike Jacobson, M-i-k-e J-a-c-o-b-s-o-n. I represent Legislative District 42. I appear before you today to introduce LB148, which, if approved, would allow the Racing and Gaming Commission to approve additional racinos west of the 100th meridian, while also allowing the Commission to delay its study until 2030. As you know, on November 3, 2020, the voters of Nebraska overwhelmingly approved Initiatives 429, 430 and 431, that change the Nebraska Constitution to authorize the Legislature to regulate and tax gam-- gambling at licensed racetrack facilities in Nebraska. You will note that the initiative did not limit the Commission to only approve existing licensed racetracks. I cannot imagine that voters in the western two-thirds of the state would have voted for this initiative

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if it limited that part of the state from participating in this activity and the economic development activities associated with it. Last year, I had the opportunity to serve on this committee. It was agreed that in order to keep the process moving, the committee would forward a bill that would allow the Commission to approve any existing racetracks facilities, but would direct quote, direct the Commission to conduct a statewide horse racing market analysis to study the racing market, as it currently exists, across the state and within the locations in Nebraska of the racetracks in Adams, Dakota, Douglas, Hall, Lancaster and Platte Counties. As of the date of the market analysis, such market analysis would be completed as soon as practicable, but not later than January 1, 2025, and every five years thereafter. Additionally, it required the Commission to, quote, conduct or cause to be conducted a statewide casino gambling market analysis study across the state and within each location of a racetrack in Adams, Dakota, Douglas, Hall, Lancaster and Platte Counties. Such market analysis study was to be completed as soon as practicable, but not later than January 1, 2025, and every five years thereafter. Unfortunately, neither study has yet to be started nor has an RFP been issued. This raises concerns about the Commission's ability to complete the study by the study deadline. Meanwhile, the western two-thirds of the state remains shut down from participating. It is worth noting that the current racetracks are all located in the eastern one-third of the state. It is 110 miles between Omaha and South Sioux City, 55 miles between Lincoln and Omaha, 26 miles between Grand Island and Hastings, and 64 miles between Grand Island and Columbus. Yet it's 145 miles between Grand Island and North Platte and 200 miles between North Platte and Gering. Additionally, the site that has been selected for a North Platte site is along the south side of Interstate 80, with easy access between the two North Platte exits and along Highway 83 that runs from Mexico to Canada. None of the other sites currently eligible to host a racino is located on Interstate 80. This access advantage should, should significantly add to the number of out-of-state travelers stopping in our state. LB148 allows for the Commission to proceed with approving additional racinos west of the 100th Meridian, without waiting for the completion of the two studies. It also allows for the Commission to postpone the completion of the initial stud-- studies until January 1, 20-- 2030. In the end, the goal of this bill is to allow the western half of Nebraska to be included in the tax relief and economic development benefits that a racetrack and casino could produce. I'd be happy to take any of your questions.

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LOWE: Thank you, Senator Jacobson. So you're saying that we could put a racetrack on the west side of Cozad, but not on the east side of Cozad?

JACOBSON: Correct.

LOWE: Are there any other questions for Senator Jacobson? Senator Hughes.

HUGHES: Thank you, Chairman. For the delay of study, we already have a bill that was going to delay it till 2029. Why-- how did you pick 2030?

JACOBSON: Picked a number.

HUGHES: Just pulled it out of the air?

JACOBSON: Pulled it out of the air.

HUGHES: OK.

JACOBSON: The, the intent of my concern, first and foremost is I think if they're going to do the study correctly, they're going to need more time. But at the same time, there are already six casinos and racetracks in the eastern third of Nebraska. So I understand the need to potentially study that. But I don't-- I cannot even begin to imagine why the western two-thirds of the state would be shut out. I'd also tell you that if we're concerned about size, go up north of Valentine, Senator Brewer's district. There a casino-- there's a casino operating just across the border, in South Dakota, on Highway 83. I think it does pretty well. Just a spot in the road. I don't think there's any question what we could do in North Platte. But I'd also tell you that when you look at that, you go to Grand Island, you think-- where do you think are-- the gamblers that want to gamble in North Platte, where do you think they're going to go?

HUGHES: Grand Island.

JACOBSON: You think they're going to stay home? They're going to go to Grand Island and they're going to take their tax dollars with them. And they're going to keep them there. Hell, they would probably even send a bus over and send them-- to take them over. We see bus trips all the time that go up to, to Valentine-- up north of Valentine. So the concern is that, that the Racing Commission should be able to make this decision without the studies and, and-- to be able to figure out

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on, on the western half of the state. There's nothing out there. We don't have any casinos. We don't have the six that are located in the third part-- the, the, the eastern third of the state. We have none. And why would we wait--

HUGHES: I'm not arguing with you.

JACOBSON: --even till 2025? That's my concern. Thank you for not arguing.

LOWE: Thank you, Senator Hughes. Senator Raybould.

RAYBOULD: Thank you, Senator Jacobson, for waiting so patiently. So I know on the, the summary sheet, it, it talks about west of the 100th Meridian, but in the language of it, it just says any, any licensed racetrack enclosure not in existence on November 1, 2020.

JACOBSON: Right. And what was happening in-- when the, when the initiative was, was passed-- OK. It said any licensed racetrack facility, OK, anticipating that there would be more licensed racetrack-- racetracks. So a year ago or the last biennium, we needed and actually, it ended up being in the last session when I sat on this committee. We were trying to do enabling legislation to move forward, to be able to start licensing racetracks and casinos. And, and in order to get the process started, we all agreed that we would allow the existing licensed racetracks to proceed with racinos, should they choose to, should the Commission approve those. But then we agreed that there would be a study done to evaluate that. I was opposed to that last year as I sat on this committee, ultimately agreed to vote for the bill to be able to get the process started, with the promise that I'd be back this year to talk about it again. Now, my concern is with Senator Lowe's bill being, being tanked earlier, my concern is where are we going? Are we just going to keep kicking this down the road a year or so at a time? You need to do what you need to do in terms of the study. And I understand that the Commission needs more time. They need more time to study the eastern third. But why on earth are we waiting for the western half of Nebraska to have their first casino? And why don't we allow the Commission to make that decision without having to do a study? I can tell you what the results of the study are going to be in the western part of the state. I mean, it's pretty easy. There's no-- there's nobody else out there doing it. The eastern third, I, I get that. I get-- I can understand their pause, because of the number that are already here and the distance that they're located.

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LOWE: Thank you, Senator Raybould. So, Senator Jacobson, you were on the committee last year.

JACOBSON: We didn't have nearly as much fun last year. I just wanted to point that out.

LOWE: Much better committee.

JACOBSON: Much better committee this year.

HUGHES: We're sitting right here.

LOWE: This year. Much better committee this year.

HUGHES: Oh, this year. Yes.

LOWE: The-- you heard the horsemen and they, they talked about developing the horses for the Nebraska-bred race-- struggled getting those horses up and running for all six tracks and, and then getting-- well, five tracks, because the quarter horses are separate. And we didn't have any Nebraska-bred quarter horse race horses, in Nebraska, at the time. Will there be enough Nebraska-bred quarter horses or are you thinking thoroughbred?

JACOBSON: Here's where I'm at on that issue. I think that, that the Commission could make its decision. And I know we discussed, last year, the idea of how many Nebraska-bred races would we have, how many were there required to be. And I believe in the, in the amendment, they just needed-- were required to have one out of the gate and then they would, they would increase the number of races, as there were horses available. My concern is that if I'm a quarter horse or thoroughbred breeder, I need to know how big is the pool going to be, before I decide how much do I lean into this, in terms of producing the foals, it seems to me. And, and it's also going to take time to build out these facilities, the tracks and the casinos. And so, it just seems to me that as it relates to going out west, a big part of this is still going to be the size of the purse. And I think that, that the, the folks that are interested in coming to North Platte are willing to enhance the purse. They're willing to do the things that need to be done, in terms of working with the other races to work-- coordinate with them on race dates. So the key comes down to we need to give the Horsemen an indication of how many, how many tracks are going to be here and how big is that pool. And I think they need that guidance to go-- to be able to lean into that. And then we need to have the, the facilities ready to go when they're ready to go, as

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well. So we're going to need some lead time. So if they can get the approvals and get their designs approved, get their contracts let, you know, we're a couple of years out just to build them out, you know. So that's, that's my view.

LOWE: All right. Thank you very much. Any other questions? Seeing none, thank you very much.

JACOBSON: Thank you.

LOWE: Are you going to stay for close?

JACOBSON: Oh, absolutely. How could, how could I leave? If I told them I'm going over to Billy's--

HUGHES: Oh, they would be so mad.

JACOBSON: It would be mutiny, so I'm just telling you. Thank you.

LOWE: All right. Thank you very much.

HUGHES: You got to take them to dinner after this.

LOWE: First proponent.

SEAN BOYD: Did you hear that, Senator? We get dinner.

LOWE: I think the whole committee gets dinner.

HUGHES: Yeah.

SEAN BOYD: Good evening. Thank you, Chairman Lowe--

LOWE: Good evening.

SEAN BOYD: --members of the General Affairs Committee. My name is Sean Boyd, S-e-a-n B-o-y-d, and I am the president of Global Gaming Nebraska, which is a subsidiary of Global Gaming Solutions out of Oklahoma. We are wholly owned by the Chickasaw Nation. You may not have heard of us unless you've heard of WinStar World Casino, which is the largest casino in the world, sits on the Oklahoma-Texas border. We operate 23 casinos today. In addition to that, we operate two racetracks. And I'm not here to convince you that we should be an operator in Oklahoma or in Nebraska. Today, I'm here to discuss why we are interested in western Nebraska and if the Commission were able to approve a track in western Nebraska this year, we would immediately

move on that opportunity. We do own land along I-80 and we would begin working with the Horsemen and/or the Quarter Horse Association to make sure that we can meet the statute and even exceed the statute number of races in North Platte. From the studies that we did and again, we operate over 23 casinos, over 25,000 electronic games today, which this market, the studies that we've done, internally and outsourced, say that this market will be between 7,000-8,000 thousand electronic games if you had, say, eight casinos, possibly two in western Nebraska. The horse racing trend overall, some, some in, I think, a prior hearing mentioned the state of California. The horse racing trend is very flat across the United States, but for several states where racinos have been approved or where by statute the funding of the purses come from casinos, such as the state of Pennsylvania, which is now the fifth largest and most rapidly growing state for purse funds, California has six states. You may say, why does Nebraska need more than six? California's purse has relatively never changed. In fact, New York has now moved into number one, in terms of purse, because those are also funded from electronic games in the state of New York. You have a unique opportunity here to solve for taxation issues, with property relief tax. You also have a unique opportunity with this bill to hand this to the Commission, so they can make a decision on behalf of the Horsemen. The state of Colorado recently tanked. Purses have darn near gone to \$0. The HBPA got a call, just recently, from the state of Colorado. They want to bring horses here and foal horses to continue to grow the breed. As Senator Jacobson mentioned, we would need two years, generally speaking, to be in operations, from the time this was approved. So there is time for horses if they do not exist today, which we believe they do, to be ready. Fifty percent of the visitation that would come to western Nebraska facilities would be from out of state. Eighty percent of the dollars that we believe we would generate in western Nebraska would be incremental. So 20 percent would be the dollars, maybe, that Senator Jacobson mentioned that are coming over to Grand Island today. Eighty percent are people that do not want to travel outside of their home or spend their discretionary income otherwise. And of that 80 percent, 50 percent of that would be from out of state. And I'll stop there, with the red light, but would welcome any questions.

LOWE: Thank you, Mr. Boyd. Senator Brewer.

BREWER: Thank you, Mr. Chairman. OK. So even though you're from country south of here, you're familiar with western Nebraska?

SEAN BOYD: Yeah, a bit.

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BREWER: Well, North Platte, population wise, there's kind of a hub there.

SEAN BOYD: Yep.

BREWER: Run up and down the interstate, you got towns of decent size, in either direction. As you go north and south, it gets a little more, a little more scarce. They were talking about the Rosebud Casino earlier. OK. So where Rosebud sits, just north of Valentine, is kind of in the middle of nowhere.

SEAN BOYD: Correct.

BREWER: Because it's right on the, the Rosebud Indian Reservation, which doesn't have much population. To find population, you have to go to the east, toward O'Neill or to the west, towards Chadron. And even there, you're only talking about towns of a couple thousand.

SEAN BOYD: Right.

BREWER: And Pine Ridge has a casino, too. But I was just looking. So somehow, with this Rosebud casino in the middle of nowhere, they generate over \$50 million. So somebody is coming from somewhere. I'm guessing some of that's coming out Nebraska. How, how do you evaluate where people come from at a casino? Is there any way to figure that out?

SEAN BOYD: Yeah. The industry uses what's called gravity modeling. And, and if the commission were to eventually conduct this study, they're going to outsource a company, much like what we use internally. So we have the same modeling as these external sources do. That gravity generally says about 125-mile radius from the casino is going to be your core. So customers will drive with their discretionary income generally up to 125 miles to game, sometimes further for a vacation or a two-night stay, things of, of that nature. So if you were to look at North Platte, that's where you're getting into a growing northeast Colorado, all the way into almost Fort Morgan, you're going to get into a-- still sparse and rural, but it adds up pretty quickly when you take in the whole northern Kansas sector and a little bit of Wyoming. Certainly, if Scotts Bluff County ends up with a facility, as well, that stands on its own, candidly, by our modeling. And that comes from Cheyenne. That's where the-- that's where those dollars can come from, across the state, as well. If you were to look at Guymon, Oklahoma, we just recently built a facility

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there three years ago. Same exact size as what we would build in North Platte. We're already going to expand that facility. Six hundred electronic games does a little over \$50 million in annual revenue. And Guymon, Oklahoma, is far smaller than North Platte, Nebraska.

BREWER: And if it's along an interstate, is it automatically a factor that you, you figure just because of the facts that they are coming by, you're going to gain more people stopping or is that really a factor?

SEAN BOYD: It, it is a factor if there's the hotel infrastructure. So what's unique about North Platte is they run over 90 percent occupancy on their over 2,000 hotel rooms today. So, yes, you're going to have visitation that is looking for something to do at night. Those hotels continue to expand. I think there's two new hotels that are breaking ground in North Platte now and restaurants continue to grow all around those facilities. So, so broadly, it's a factor, if the town itself can handle that traffic and then municipal services are a huge factor. You don't have those issues, currently, in your six cities where you have racetracks today in the eastern third. There are very few cities that could handle, from a municipal, municipal services standpoint, a racino in western Nebraska. North Platte is certainly the shining star of that, from everything from fire, EMS, police, which we would have shared services agreements with, to even just sustainability of water and electricity, that these are 24/7 facilities.

BREWER: Thank you.

LOWE: Thank you, Senator Brewer. Senator Hughes.

HUGHES: Thank you, Chairman. OK. So you said you're from Oklahoma and I assume the 23 casinos you own right now, currently, are all in Oklahoma?

SEAN BOYD: They are. Indeed.

HUGHES: Is that the total number of casinos in Oklahoma?

SEAN BOYD: No, there are actually 150.

HUGHES: OK. That is-- I wondered this. Because I went to college down in Texas and so, I've driven that a million times. And it might have been a long time ago, but no casinos. And now, when you go down that stretch, the interstate, there's a casino, I swear to God, at every 30 miles.

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SEAN BOYD: Yeah.

HUGHES: How is that? Do you have no-- anybody can put a-- I mean, there can be a casino anywhere? There's no rule on--

SEAN BOYD: So Oklahoma is--

HUGHES: --doing studies and figuring it out.

SEAN BOYD: -- super unique. It's all tribal gaming except for two racinos, which are commercially operated.

HUGHES: OK.

SEAN BOYD: So statutorily, there can be no additional casinos that are not owned by tribes. So we own one of those commercial casinos. That's our racetrack in Oklahoma City. And then in addition to that, our 23 casinos are tribally owned by the tribe. So 150 casinos. What happened is the Trail of Tears landed in Oklahoma, unfortunately. So the Supreme Court, two years, ago came out with the McGirt case, which deemed that essentially, 70 percent of the land in Oklahoma is tribally owned. So the statute is such that tribes can build as many casinos as they believe sustain their tribe from an economic standpoint. But they have to only build on their-- in the counties which they own land. So, for instance, we, the Chickasaw Nation, only own 13-- we have 13 counties. We just happen to abut Texas, which is economically beneficial. And we're along I-35. We've, we've about tapped out those 13 counties, from a, a number of facilities we would build, at 20-plus, in 13 counties.

HUGHES: Because you-- population of Oklahoma is what, double Nebraska?

SEAN BOYD: Just about that. Four million. Yeah.

HUGHES: We don't want that. No offense.

SEAN BOYD: No, we-- I would, I would, I would say that you're in a really unique position. You-- statutorily, you did a good job. Your commission is working really hard to try to get this launched and it is not easy. The state of Texas hasn't even figured out how to get this done right yet. The tracks are looking at what you've done in Nebraska, in Texas right now, to how to, how to model that. And likely that's how legislation would fall in Texas. But when you look at, again, California, there are no commercial casinos. So, much like Oklahoma, there's 75 tribally-owned casinos in California. They don't

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have a, a-- they don't have to statutorily fund purses for horse racing. Horse racing can only grow in California if people bet on races run in California, mobilly or at a you know, at a wagering facility. So there are no, there are no casinos in Florida or California or Illinois that can be funding horse racing. So you have a really unique ability to capture tax dollars, correctly, with incremental facilities, but also grow horse racing at the same time.

HUGHES: OK. Thank you.

LOWE: Senator Raybould.

RAYBOULD: Thank you, Chairman. Mr. Boyd, so you're with Global Gaming Solutions?

SEAN BOYD: Yes.

RAYBOULD: OK. And then, so how-- what is the percentage of ownership of all the casinos by the Chickasaw Nation?

SEAN BOYD: Great question. So everything that we operate is 100 percent owned by the Chickasaw Nation, so they are the only shareholder for Global Gaming Solutions. But global gaming solutions, when it leaves our exclusive jurisdiction, abides by state law. So we don't carry-- global gaming solutions, doesn't carry any sovereignty with it. So, for instance, the racetrack we own in Oklahoma City, we abide by the state law of Oklahoma. And then the racetrack we own just outside of Dallas, we abide by the state law of Texas there. But all of our revenues, net of taxes, go back to-- we have community funds, things we do in the communities. We operate, but the Chickasaw Nation is the shareholder. So interestingly, unlike Caesars or an MGM or things of that nature, when there, when there's shareholder pressure, what you see in commercial casinos is they don't get kept up with. I'm sure you've been to casinos in areas where they aren't as nice as they were 10, 15 years ago. Our shareholder never changes. And if you were to look at our facilities, even in rural Oklahoma that have been there 20 years, which is about how-- it's not that old. It's pretty infant. We're reinvesting in those facilities today because our owner is going to be the same for hundreds of years.

RAYBOULD: Thank you. So just to clarify, the Chickasaw Nation owns 100 percent of the shares.

SEAN BOYD: That is correct.

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RAYBOULD: OK. Thank you.

SEAN BOYD: You bet.

LOWE: Thank you, Senator Raybould. Senator Holdcroft. We haven't heard from you yet today.

HOLDCROFT: Thank you, Chairman. I'm sorry. What did you say?

LOWE: Continue.

HOLDCROFT: I have to ask the question. I mean, with 150 casinos, you must have a huge gambling issue. I mean, it's an addiction issue in Oklahoma. How does the, how does the state address that?

SEAN BOYD: So there's funds that go into the problem gaming fund, much like Nebraska has established here. I would say that if you were to walk into our casinos and I-- I'm on the operations side as well. I'm not an attorney. I'm, I'm on the operations and business development side. So I'm in our casinos almost every day. Candidly, I think 95 percent of the customers are choosing to be there with their discretionary wallet. And there's a small percentage of customers that we consistently try to engage with problem gaming messaging. And those customers are there putting in a couple of dollars or walking around trying to find loose change. We try to find paths and pathways. And the state of Oklahoma has adopted much of the federal regulation around problem gaming. And I would say that it's, it's leading the country along with California, in how they implement that policy.

HOLDCROFT: Well, it seems as if they're just putting in a few dollars, I don't know how you can support 150 casinos.

SEAN BOYD: Yeah.

HOLDCROFT: I mean, how much are they making?

SEAN BOYD: It's-- well, it's the number two, in terms of gross revenue in the country. Well, number three, the state in Nevada is number one, California's two and Oklahoma is three. The state of Texas is a significant contributor to that number. Fifty percent of the Oklahoma revenue comes up from Texas because it's not legal today, in the state of Texas.

HOLDCROFT: OK. Thank you.

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LOWE: Thank you, Senator Holdcroft. Senator Brewer.

BREWER: Just to help clarify for Senator Raybould, we did use \$20-some million of Oklahoma money to build the senior home in Whiteclay and also, to put a wing on for mental health. So we're already bringing money up from Oklahoma to use in Nebraska. But just so you know, so some, some of the money actually is targeted for really good causes out there.

SEAN BOYD: And we, we just recently contributed to the, the Winnebago tribe. There's-- tribes work together for pooling funds that go back into improving communities and tribal communities. And we do that with tribes all over the country. So we have a committee that picks where those dollars go and some of those dollars, additionally, Senator, came back to Nebraska, to the Winnebago tribe, for some housing facilities that they were building on their reservation.

LOWE: OK. Thank you. Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. And thanks for being here. So if we don't pass this bill, do you guys lose interest in this project?

SEAN BOYD: No. We have interest in New York and California today and we're still interested in Nebraska. We're actively pursuing-- and, and Sonoma County is going to happen. And New York, it's going to be a very competitive process. We see our model is extremely sustainable. So if this bill doesn't happen this year, I would say we'll be right back at this seat next year, because the study's likely not done, even if nothing happens at this point. And candidly, I think the study is going to say what we all know. There's a-- there's available market in western Nebraska. So as, as policymakers, the, the question is, can the Commission then make that decision or not? And if, if the Commission's capable, then that's a decision we, we think they're capable of making. If we have to wait till after the study, I, I think we'll still be here.

J. CAVANAUGH: Thank you.

LOWE: Thank you, Senator Cavanaugh. You had brought up Wisconsin and New York. How many racinos are in both of those-- horse tracks?

SEAN BOYD: Wis-- I don't know that I mentioned-- Illinois?

LOWE: Maybe, maybe it was Illinois.

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SEAN BOYD: Yeah. So New York, you're running-- and it's the number one state. You're running 2,645 races today, with \$180 million in purse.

LOWE: Do we have a number of tracks?

SEAN BOYD: You are looking at about, give or take, five.

LOWE: OK. And how about Illinois?

SEAN BOYD: So they're running today, \$27 million, which you'll exceed, in, in total purse money in your industry here, with roughly the same number-- a handful of tracks.

LOWE: Five tracks. And those are racinos, also?

SEAN BOYD: No.

LOWE: Are they just tracks?

SEAN BOYD: Those are tracks funded by the slot machine market, the LT market.

LOWE: OK. Because when we brought the initiative, it was the Horsemen's Association and, and Ho-Chunk that got together to do-- bring this to help support the horse racing industry in-- I-- with states four times our population with fewer tracks, can we support that many horse tracks?

SEAN BOYD: I believe if this bill makes it out of committee, I'd be willing to wager the HBPA would support it. I believe that the Quarter Horse Association would support it. The Horsemen and the, the horse racing industry, breeders, trainers, people that sell feed, they want more races. They're after one thing and that's dollars. So we're, we're going to contribute more out of one track, call it roughly \$4-\$5 million in additional purse money out of North Platte, than the amount of purse money that's available today, in Nebraska. Now, obviously, Lincoln and Omaha are going to drastically increase the purse fund, as well. Statutorily, you don't determine in the state of Nebraska, you're-- the bill here never determined how much money has to go from the gaming facility to the purse. Those have been left to, to private contracts between the track or casino owners, which sometimes are two different individual or groups and the Horsemen. And they've done a good job negotiating those, from our understanding. But I would be willing to wager they would support it if it gets out of this committee.

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LOWE: So the Global Gaming Nebraska, Global Gaming Nebraska, it's just going to operate the casino. It's not going to operate the track then, also.

SEAN BOYD: We are capable, fully capable of operating the track. We would like to look at the same model that Lincoln and Omaha have today, where someone like the Horsemen operates the track, a Nebraska entity. We think that's best for Nebraska racing, but that, that would be another agreement we would have to get in place, post legislation.

LOWE: And are you thinking thoroughbred or quarter horse?

SEAN BOYD: We run both. And not to, not to-- I mean, that's not a copout answer. We do run both, in Oklahoma and in Texas. I predict, in the future, your tracks will run both. I think the quarter horses, too-- you mentioned earlier, Chairman, there were none, race bred. And there will be some now, because you have a quarter horse track. I believe tracks won't, in the future, be just thoroughbred or quarter horse, that both of those breeds will vie for races. We, we run about 60/40. There's always more thoroughbreds than quarter horses, broadly speaking.

LOWE: OK. All right. Thank you. Any other questions?

SEAN BOYD: Thank you for the questions.

LOWE: I want to thank you for making the trip.

SEAN BOYD: Yeah. Thank you very much.

LOWE: Good evening.

LISA BURKE: Good evening. Thank you, Senator Lowe and the General Affairs Committee for hanging in there with us this evening. My name is Lisa Burke, L-i-s-a B-u-r-k-e. I am the executive director of Visit North Platte. The Visitors Bureau in North Platte is full-- is in full support of Senator Jacobson's bill, LB148. As you all know and probably Senator Brewer knows best, North Platte is home to Buffalo Bill Cody with his historical tweaks and NEBRASKALand Days, which is Nebraska's official state celebration. Buffalo Bill was a very exceptional horseman and he only rode the best horses. His involvement in the sport of racing, though not in the traditional sense, has made a lot of history, from challenging the local mounted Fort McPherson soldiers to men on bicycles in England and to the Great American Cowboy Race, that started in Chadron, Nebraska, and ended in Chicago.

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That history, western history, runs very deep in our community. Adding a horse racetrack right along I-80 and Highway 83 would set North Platte up to capture more than 13 million travelers that go by North Platte every year. They travel on Interstate 80, going east and west and Highway 83, going north and south. Thirteen million. It is very disconcerting to us that the state of Nebraska is 77,000 square feet--square miles, excuse me, in size and only one-third of that is allowed to have a racino. Of those 13 million travelers that drive by North Platte every day, right now, 600,000 of them currently spend at least one night and most of them, two nights. If we had a racino, they would spend another half day dropping more money in our, our, excuse me, in our community, community. And new ones would stop because of the racino. In fact, if I-- yeah. I was going to say, again, that it-- it's-- we, we would be the only one on I-80, but I think that's been hit home for you. Nebraska, currently, excuse me, North Platte currently brings in a comparable amount of lodging tax collections, as what Grand Island does. And Grand Island is blessed with a racetrack. We have the infrastructure to handle horse racing and a casino, with over 2,000 lodging accommodations and more local hotel rooms being built as we speak. The yearly economic impact of a racino to our community in North Platte, is around \$80 million a year, \$80 million a year. I urge you to vote this bill out of committee so that the rest of Nebraska can get the economic benefits of a horse racing and casinos. With that, do you have any questions for me?

LOWE: Thank you, Ms. Burke. Does North Platte know anything about horses?

LISA BURKE: A little bit.

LOWE: Are there any questions? Yes, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Lowe. Thank you for being here, Ms. Burke. What was that horse race called from Chadron to Chicago?

LISA BURKE: Chadron to Chicago. It's the great American-- the Last Great American Cowboy Race. You have to look it up. It's quite the--

J. CAVANAUGH: I am going to look that up.

LISA BURKE: --yes. Very interesting.

LOWE: Thank you, Senator Cavanaugh. Any other questions? Seeing none, thank you very much. And thank you for your patience of waiting.

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LISA BURKE: Thank you.

LOWE: Good evening.

PETE VOLZ: Good evening, Chairman Lowe and counsel. I'm an old B52 radar navigator, so thank you two for your service. I've had a lot of time to Google you guys and everyone else here. So.

LOWE: I've been Googled.

PETE VOLZ: I am a business owner in North Platte, prior chair of the Planning Commission and I'm on the City Council in North Platte, currently. The premise of my testimony today--

LOWE: Could we please get your name and spell it for the transcribers?

PETE VOLZ: Oh, I'm sorry. That's the one thing I forgot. Pete Volz, P-e-t-e V as in victor, o-l-z, as in zulu. The premise of my testimony today is to demonstrate why North Platte would be an excellent location for a racetrack racino, why no further oversight studies are needed and LB148 is the right path to proceed to ascertain expansion in North Platte and possibly, fix other legislation concerning games of skill, which have hindered our community. You see, North Platte has, currently, over 200 games of skill, that we know of and they are mainly unregulated. We currently charge \$10 per machine per year, but we are looking at restructuring our fees as well as our compliance, because we have seen a negative impact on our community. Many of these, these games of skill are located in loosely attended facilities, which leads to nefarious activities to include shootings, stabbings, robberies, drug dealings and drug usage. Since we are learning by experience and no legislative guidance, we have no ordinance on the books currently. Our police department has no guidelines for compliance, so we can only react once a crime has been committed. Beside the fact that North Platte is covering-- not covering expenses for services required, the State of Nebraska Department of Revenue is currently conducting an investigation of an owner of one of these facilities for underreporting hundreds of thousands of dollars of income, leading to more time and expense for the state. With the passage of LB148, I feel you would see a decline in the games of skill and the horse track and casino would take its place. The casino would give, give this clientele a well-regulated, professional and clean atmosphere for this entertainment. The Nebraska Legislature has well-established rules and regulations in place to deal with casino gaming and horse betting. The casino would be the

front line of defense in combating illicit and illegal activities. Our police, full-time fire department, as well as EMS services, are gearing up to handle this facility, as well as many others as our city continues to grow. In closing, I feel the Nebraska Senate provided no oversight when it came to games of skill, but are looking to overregulate horse tracks and casinos. I feel the regulations already on the books with the Nebraska Racing Commission, along with the ability of the horse tracks to police activities going on on their properties, for their survivability, indicate a successful endeavor. I apologize for going over. Do you have any questions?

LOWE: Thank you very much. And thank you for coming down.

PETE VOLZ: Thank you.

LOWE: Are there any questions? Seeing none, thank you very much.

PETE VOLZ: Thank you.

TY LUCAS: Good evening, Chairman, Senators. My name is Ty Lucas, T-y L-u-c-a-s. I come here tonight as a city council member from the city of North Platte. Our community voted in favor of the gambling initiatives, the horse track and the casinos. And then soon after, our city council granted a conditional use permit for that activity in our community. I'm really here tonight to tell you that our community's excited about this opportunity. We welcome it. We have developers that are ready to put significant investment into our community. They're not asking for TIF dollars, they're not asking for LB840 dollars. They're a-- matter of fact, they're offering to help improve our backbone infrastructure. This would really help our hospitality industry, our local event center, and the overall growth of our community. Real excited about the potentially 200-plus jobs that would come along with this. We don't have a four-year college in our community. Our food service and drink service businesses really struggle to find trained employees. In my research, talking to the Riverton, Wyoming community, they said one of the best things about having a casino in your community is the great training and the recruitment of customer service employees that come to your market. We would be very excited about that. There's a little saying in North Platte that I'd really hope ends someday, and that's that, well, gosh, we don't have to commute to work every day like you in the metropolitan areas, but we have to commute on the weekends. And our area lacks the entertainment options that people are looking for, in particular, in the winter. If you don't like to shoot ducks or go ice

fishing, go cross-country skiing or go to the theater, there's, there's just less options of things to do and so, we would be excited about having this entertainment option. It's a very natural fit for our area. As Miss Burke spoke about NEBRASKAland Days and Buffalo Bill, it's just such a natural fit. I mean, for example, we have Jason Aldean and Cody Johnson, famous country music stars, coming to our community. We will have people from all over the nation come to these shows. We think the service offering just fits well. In closing, the tax revenues would be significant for our county and our city. It gives us a real shot at significant tax relief. And I guess in closing, we welcome this to our community. This was not adversarial at our conditional use permit hearing. Both Councilman Volz and I voted in favor of it and we're very excited for this opportunity. I'd be happy to answer any questions.

LOWE: Thank you, Mr. Lucas. Are there any questions? Senator Brewer.

BREWER: Thank you, Mr. Chairman. If we were to look into your crystal ball, where do you see the footprint for the track casino facility actually sitting?

TY LUCAS: The proposed site is right on I-80. It's a little closer to exit 177, which is our primary exit, but stretches between there and 179 on the south side, right over by the D&N Event Center. One reason that we're so excited about that is we've, we've got a big investment in backbone infrastructure on the north side of the interstate. We don't have that fully on the south side. We're still seeing growth in that area. As Mr. Boyd suggested, there are two hotels under construction right now, but that area needs serious backbone infrastructure attention. It would be very difficult for our city to afford and this would give us that opportunity.

BREWER: Thank you.

LOWE: Thank you, Senator Brewer. Yes, Senator Raybould.

RAYBOULD: Yes. Thank you, Chair. So thank you, Mr. Lucas. So could you walk me through the process again? So the, the city of North Platte has approved it. And then, have you approached the Benevolent Horseman Association and-- to get their interest, because wouldn't they be the party you would also have to work with on the race track? Or no?

TY LUCAS: It-- I will tell you, in my daily profession, I work as a banker and I'm not an attorney on this, so-- but I was on the planning

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commission with Mr. Volz for a long time and so, I'll try to recite this right. We issued a conditional use permit, which, my understanding, goes with the land. And it's for the activity on that land, which is for the, the racetrack and the casino. So in other words, we reviewed it from a zoning-- planning and zoning perspective and then it went through our planning and zoning process. They recommended a conditional use permit, it came to the city council and then we provided approval on that. So we understand that this falls under state jurisdiction and the licensing aspects of it, but the use of the land has been approved in our community.

RAYBOULD: But have you had discussions with the Benevolent Horseman Association about their interest?

TY LUCAS: They were-- I'm sorry. I didn't answer your question fully. They were at our hearings and spoke in support of this, so yes. Our-- my understanding is, is that the association tied with the horses are excited about the opportunity in our area.

RAYBOULD: OK. Thank you.

LOWE: Thank you, Senator Raybould. What is the unemployment of North Platte? Unemployment rate? Do you know?

TY LUCAS: I don't know exactly. It's very low, currently. The interesting thing about North Platte, though, is our ability to pull employees from surrounding areas. For example, when the Wal-Mart Distribution Center came to our community, it took them a little while to ramp up their employee base. But then they found that a large number of their employees began to commute off the farms and ranches and from the small communities in our area. And so, we believe that we serve a larger radius and that if the quality jobs are there, people will come to our community.

LOWE: You brought up the service industry. Are you afraid that maybe a new casino/racino may cabbage that industry-- the servers, the waiters, waitresses and the cooks, away from those small businesses into a larger one that might be a little flashier?

TY LUCAS: Certainly. I tend to expect a little, maybe, short-term pain for long-term gain. I would think that obviously, an employer of that stature would, would rattle our market significantly. But my hope would be over the long pole that it would create a venue for training and expansion of, of those people. I know what we're doing today isn't

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solving the problem. And in our conversations with, specifically, business people out in Riverton, Wyoming, they indicated that it created a significant positive for their market, in getting more customer service representatives to come to their community.

LOWE: All right. Thank you very much. Any other questions? Seeing none, thank you, Mr. Lucas.

TY LUCAS: Yeah. Grateful for being here. Thank you.

LOWE: Good evening.

GARY PERSON: Evening, Senator Lowe, committee members. My name is Gary Person, spelled like person, G-a-r-y P-e-r-s-o-n. I am the president of the North Platte Area Chamber and Development Corporation. Just wanted to go-- I know you've already heard a lot of people from North Platte. What I've handed out to you is some bullet points on why we think this is a statewide issue, why we think North Platte is a very strategic location and why our partner in this, Global Gaming Nebraska makes a wonderful partner that will not only represent our community extremely well, but the entire state of Nebraska. Our board of directors of the North Platte Area Chamber and Development Corporation represents 625 businesses and an economic development partnership with the city of North Platte and Lincoln County and it's unanimously endorsed LB148. Senator Jacobson's proposed legislation assures west-central and western Nebraska to gain its rightful place, pursuing a horse racing venue supported by casino gaming. This is the intent so many of us thought was meant to be from the ballot language we all voted on in 2020, almost 30 months ago. The people of the state of Nebraska have spoken. Regardless of your personal feelings about the ballot initiative, the will of the people must prevail. It was a statewide initiative, not one that just covers one-third of the state of Nebraska. Sometimes, pictures are worth a thousand words. I'd like to conclude, Senator Lowe, if you would allow me 15 seconds to show a prop. I know you told us we couldn't do that at the beginning of the day, but I just-- the map.

LOWE: No, no props. We'll take a look at it when we're all done, if that's OK.

GARY PERSON: Sure. I'll put it right against the wall.

LOWE: That, that would be wonderful. Thank you very much.

GARY PERSON: Thank you.

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LOWE: Are there any questions for Mr. Person? Seeing none, thank you.

GARY PERSON: Thank you.

KARLA NIEDAN-STREEKS: Good evening, Senator Lowe and members of the committee. I'm Karla Niedan-Streeks, K-a-r-l-a N-i-e-d-a-n-S-t-r-e-e-k-s. I am director of tourism for the city of Gering and I'm here on behalf of the city of Gering, representing the support of LB148. LB148 as written and your support of this bill is the opportunity to have a major positive economic impact on all of western Nebraska, including Gering, Scotts Bluff County and all those communities located west of the 100th Meridian. Our economies in western Nebraska are built on strong agriculture and strong tourism industries. The city of Gering and our regional partners have worked aggressively to support and promote the growth of both industries that work hand in hand as economic drivers. Our landmarks of Chimney Rock, Scotts Bluff National Monument, thousands of acres of public use lands at Wildcat State Recreation Area and our rich Oregon Trail history are natural partners for the horse racing industry. The opportunity for racing and casino gaming grows and expands western Nebraska's destination marketing draw, significantly enhancing the vision and mission of Gering and western Nebraska partners, who promote diverse and attractive amenities that drive visitor stays and valuable tourism revenues from a four-state area. The proposed racetrack in Gering is estimated to attract over 1.1 million annual visitations to the facilities, with over 55 percent of those visitations coming from out of state. So when you're contemplating LB148 and hopefully your support, we'd ask you to consider these things: first and foremost, property tax relief for western Nebraska. It's estimated new taxes of \$1.15 million to Scotts Bluff County and an additional \$1.15 million to the city of Gering; a significant impact that will come from business and employment opportunities. It's estimated that between 150 and 180 employees in Gering and Scotts Bluff County, with total annual salaries between \$4.2 and \$4.5 million; utilization of local contractors and suppliers that include multiple segments of the ag industry; and new housing and commercial development, which is greatly needing process-- needed for sustaining the economic growth in the western part of our state; and strong economic impacts projected for all communities west of the 100th Meridian. The majority of Nebraskans voted yes to allow horse racing and casino gaming in our state, our entire state. LB148 reflects the desires of all 12 counties in the Panhandle of Nebraska, who voted in excess of 65 percent in favor of the racing and gaming initiatives in the 2020 general election. The city of Gering respectfully requests your consideration and support of

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one-- LB148 for the benefit of us in Western Nebraska and the entire state of Nebraska. I wanted to thank Senator Jacobson and Senator Lowe and all you members of the Committee for staying with us tonight and hearing us out. And I would be happy to answer any questions.

LOWE: Thank you very much. You are the second house, so we are glad to stay for the second house.

KARLA NIEDAN-STREEKS: Thank you.

LOWE: Are there any questions? Seeing none--

KARLA NIEDAN-STREEKS: Thank you.

LOWE: --thank you very much.

BRENT SMOYER: Long day. Good evening, Chair Lowe, members of the committee. My name is Brent Smoyer, B-r-e-n-t S-m-o-y-e-r, and I'm appearing today as a registered lobbyist for the Nebraska Travel Association, an organization consisting of nearly 100 organizations and businesses from border to border of this great state that promote tourism throughout Nebraska. Tourism, fun fact, is our third largest industry and generates over \$3.3 billion, annually. The Tourism Commission has reported that a record \$7.2 million in lodging tax revenue was collected in 2022, up 18.3 percent over the previous record, set in 2021. That is part of the reason we come in in favor of LB148. We believe that the addition of another racino in the western portion of the state will be significantly beneficial for the entirety of the state and of course, for western Nebraska. It is worth noting that the estimated total direct economic impact for a community west of Cozad that would build a racino would be around \$60 million a year. Again, that's just the estimated. It'd be very curious to see what would actually happen, especially as well-planned as I've heard from both sides, both Gering and North Platte, this, this evening. The economic benefits also include over 100 jobs for Nebraskans that, of course, in western Nebraska, truly need the opportunities. These jobs would have a yearly payroll of over \$20 million a year. The other major point that the Travel Association would wish to make and I make this as somebody who's had work with the PSC and other commissioners in the state government, is that ultimately the legislature should allow and should trust the Nebraska Racing and Gaming Commission to make the decision about who gets racetracks, especially in the western part of the state. I think it's worth noting, again, as has been stated before, that all of Nebraska, 65 percent or so, voted in favor

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of allowing gambling in the state at racetracks. And so all of Nebraska should be allowed to benefit, not just communities east of Grand Island. Of course, with the two communities that have already put in plans to the Racing Commission, Racing and Gaming Commission, I apologize. I'm still, still of the old school. It's worth noting that they should be given the opportunity to present their case and of course, have that economic growth associated. We appreciate it. And with that, I would ask-- any questions if you have them.

LOWE: Thank you, Mr. Smoyer. Are there any questions?

BRENT SMOYER: Thank you.

LOWE: Thank you. Are there any more proponents? Seeing none, then we will switch to opponents.

PAT LOONTJER: Oh, Senators, it's been a long day.

LOWE: Thank you, Ms. Loontjer, for staying.

PAT LOONTJER: Thank you for your patience, as well as the others here. I'm Pat Loontjer, spelled L-o-o-n-t-j-e-r. I'm the executive director of Gambling with the Good Life. For 27 years, we've opposed expanded gambling, and LB148 definitely is addressing that issue. When the voters did vote in 2020, they voted for six casinos. We certainly weren't happy about that. And their now huge thing that started out at \$220 million for some of those-- for Lincoln and, and Omaha and now, they're looking at two-- \$230, maybe \$240 million, to even get them started. The economic impact is so important and that's why the Racing Commission needs to enforce that, because we have no idea what these six huge casinos are going to do to our economy, to our families, to our businesses. And we need that information before we even consider expanding, outstate or wherever there's proposals for more. So we, we need to stick with that plan. We need to get those casinos up and running and we need to be able to evaluate how it's affecting our economy and our families. The millions of dollars that they're talking about is not money that's going to fall from heaven. This is going to come out of our economy. It's coming out of primarily Nebraskans, families and their incomes. We need to be very cautious before we jump off any cliff and expand this way beyond the intention of, of the voters in, in 2020. One of the, the witness testimony said that they're already experiencing difficulty with the 200 BankShot machines that they've got. Well, when you add another 200 or 300 slot machines, which is exactly what a BankShot is, how many more problems are you

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going to have? How much more addiction? How is this going to affect your community? This all needs to be studied very, very carefully before we jump off any cliff. I think that's it. Oh, I know. It's almost St Patrick's Day. And so, very few people have their own Saint-- Saint's Day, which I do. So I brought you treats.

LOWE: We can't, we can't-- I'm sorry, but thank you.

PAT LOONTJER: OK. Can I just leave them over there and you can get them later?

LOWE: You, you can leave it with the state patrolman back here.

PAT LOONTJER: OK.

LOWE: And careful.

PAT LOONTJER: Well, it's chocolate pistachio cake, so I hope you like it.

LOWE: Oh. No eating it. Thank you very much. Are there any questions besides are, are the desserts homemade? Yes.

HOLDCROFT: Thank you, Chairman. Just based on some of the testimony we had about the great success in Oklahoma of these casinos, I did a quick Google of the worst states for gambling addiction. And I see that Oklahoma comes in at number five and Nebraska is number 49. So.

PAT LOONTJER: That'll change soon.

HOLDCROFT: That's all.

LOWE: Thank you, Senator Holdcroft.

PAT LOONTJER: Thank you.

LOWE: Are there any other questions? Seeing none, thank you very much. Oh, if that's more chocolate cake.

HUGHES: Yeah, I know.

RAYBOULD: I, I really perked up.

LOWE: Good evening.

JOHN HASSETT: Yeah, good evening. Yeah. Senator Lowe, my name's John Hassett. It's J-o-h-n H-a-s-s-e-t-t, and I'm president of Aksarben Equine. And I appreciate the opportunity to be here tonight. We-- Aksarben Equine submitted a proposal, in June of 2021, for a racetrack casino operation in Bellevue, Nebraska. And I appear today in opposition to LB148. I, I think it's obvious why I'm opposed to this bill. It allows some of the new applicants to get started, while others not only wait for the study, but now we're pushing the study back another five years. I, I just think it's a real fairness issue that-- however, there's a couple of points I wanted to make today. And some of it is follow-up from the previous hearing a couple of weeks ago. I, I brought a copy of my proposal, initial proposal, because it dawned on me from the questions I got that the members of the committee had, had never seen it and that's probably my fault as much as anyone. The proposed law about the horse tracks, our barns, the proposed operations and our proposal goes well beyond the minimum requirements for horse racing. It's-- it was always my focus to bring a first class quarter horse racetrack to Nebraska. And I wanted to point out, too, that I invest personally in the industry. I am partners in two different thoroughbred partnerships with mares. We have seven mares and my quarter horses I own myself. And we had a quarter horse colt last Thursday, so now I have 20 horses. The, the second part that I wanted to bring up today is you've mentioned the differences between the quarter horses and the thoroughbreds and, and they are two different animals. And while there's five thoroughbred racetracks in Nebraska, there's only one quarter horse race-- and we only ran one, one race. So that's a-- I knew-- it got mentioned a couple of times that there's not quarter horses in Nebraska and I knew that wasn't true, so we ordered a study. We had Convergent Strategy Group to do a study for us. We asked them to evaluate the horse population in Nebraska. They've done horse racing studies in New Mexico, Iowa, several other states. And it's, it's the white paper that's going around. But not only is there-- their conclusion is that there's opportunity for resurgence in quarter horse racing, as evidenced by the large number of quarter horses in Nebraska. Kentucky-- the state of Kentucky just has a newly licensed quarter horse track and they have less than half as many quarter horses as we have [INAUDIBLE]. OK. So-- the-- can I finish the one point then I won't--

LOWE: Quickly. Very quickly.

JOHN HASSETT: --OK. My point is if you study the market now, study it in 2025, '29, '30, there is quarter horses in Nebraska. They just need

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a place to race. And I don't, I don't think that's going to change, pushing the date back. So with that, any questions?

LOWE: Thank you, Mr. Hassett. Are there any questions? It was yes, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. Thank you for being here, Mr. Hassett. I'm just curious, looking at the chart you gave us, Indiana adds racinos and their breeding mares goes up quite a bit and then drops off. What happened?

JOHN HASSETT: Yeah. You, you know what? I was hoping that the guys from Columbus would be here because the, the-- Harrah's runs that, also. But, but I, I know what happened in Iowa. When theirs dropped off, they cut the purses. I'm not positive what happened in Indiana. But yeah, if you look in Indiana and Ohio, when they tied the purse money to the, to the casinos, the, the breeding has taken off.

J. CAVANAUGH: Well, it's just a little concerning when we sit here and talk about our whole desire to stimulate an industry and you see it look like it's successful and then it craters a couple years in.

JOHN HASSETT: I know they've been up quite a bit the last two years. I do know that. They've, they've been at the Racing and Gaming Commission, but Caesar's has the Indiana Grand there and they're, they're going to be the casino partner for Columbus. And, and I know they've been up the last two years. They mentioned that.

J. CAVANAUGH: Well, we will ask another time. Thanks.

JOHN HASSETT: Yeah, yeah, yeah.

LOWE: Other questions?

JOHN HASSETT: Yeah.

LOWE: In one of the other hearings that we had-- I don't remember if it was this year or last year. It was stated that racing quarter horses are different than riding quarter horses.

JOHN HASSETT: Yeah. That's correct.

LOWE: Are, are there racing quarter horses-- a lot of racing quarter horses in Nebraska then?

JOHN HASSETT: There are, Senator. And I, and I knew there, there was. They run on the farms in Nebraska. It-- it's, it's very popular. It's unlicensed, unregulated. And there's a website that tells you when they're running. I go to them. You know, they're fun, but I don't think they're-- it's certainly not safe for the horses. Some of the bleachers are even kind of questionable. I mean, some of the settings, I really think we'd be much better off if we had licensed, regulated quarter horses. But I was talking to my-- the guy that shoes my horses, Durwood [PHONETIC]. And he, he told me there's at least a thousand horses in training, right now, in Nebraska, because he shoes them. In, in fact, he's pretty popular. I know a guy flew them out to California [INAUDIBLE] \$50,000 race and they flew Durwood [phonetic] out there to shoe the horses. There's about 80,000 quarter horses in the state, but less than 1 percent would be racing quarter horses, so-- to kind of help answer your question. A lot of them working on the farms and they are barrel racers and roping horses.

LOWE: Right. Thank you.

JOHN HASSETT: Yeah.

LOWE: Seeing no other questions, thank you very much.

JOHN HASSETT: Yeah. Thank you.

LOWE: Good evening.

RUSTY HIKE: Good evening, Chairman Lowe and other members of the General Affairs Committee. My name is Rusty Hike, R-u-s-t-y H-i-k-e, and I'm the mayor of the city of Bellevue, of which I did have a 4.5-hour council meeting. I thought that was long, but you guys shattered that today. I'm just-- I'm not going to mention that anymore. I'm not going to read all this. You, you have it for your records. But this bill is a big problem for Bellevue. We've been working on a large development area south of town. And I know you've heard we're putting in a \$200 million sewer system along Sarpy County, to develop 70 percent of that county. On-- in this particular area, we're trying to put an entertainment district and marry it with a, a office district and employment district, so we've got huge plans for that. We're currently talking to \$500 million in development at this time. If we get the CHIIPS, CHIPS manufacturer-- we could get one or two of those, which we're working really hard on. And that's a-- I forget the bill number, but it's Senator McDonnell, LB512 (LB616) or something like that, is working on. But we're bringing that sewer

system in. We've got the NC3 project going. We've got a lot of motion going down there. And this, this is kind of a centerpiece to that entertainment district, so it would really help us out. And we're talking about-- you're talking about \$20 million a year, minimum, with the racetrack and casino, coming into the state every year to help with property tax relief: \$2.5 million for the city of Bellevue, \$2.5 million for Sarpy County and another \$15 million, directly to the state, so that's kind of the minimum numbers. So that's a, that's a big deal for us and it's a big deal for the state. So if we're, if we're talking about who had the first horses, I know we talked about that. I mean, Bellevue was-- had the first trading post in 1822. Chief Logan Fontenelle had a really nice horse and so did Lewis and Clark. So, I think we've got a long history in Bellevue. The casinos in Council Bluffs, there's four casinos in Council Bluffs. There's 115,000 people in Pottawattamie and Mills County total. Across the river in Douglas and Sarpy County, there's 750,000 people. So it doesn't take much to know where that, where that funding is coming from. So talking about crossing the borders, that's the entertainment dollars we're after. I would just say, you know, get the studies done. We got 21 months to get the studies done. It takes care of all these questions. It lets, it lets our developers know if it's going to work and lets you guys know if it's going to work. So those are, those are-- that's what we need to do these projects. And I'll be glad to answer any questions.

LOWE: Thank you, Mayor Hike. Are there any questions? Senator Brewer.

BREWER: Well. I, I guess you understand that those of us in western Nebraska sometimes struggle with the simple fact that everything is in this bermuda triangle between Lincoln, Omaha and you pick the other town. And that's where all the money goes. That's where all the special things go. That's where everything that is, I guess, available, in the way of, of resources, ends up. And the half of Nebraska that goes beyond Kearney is kind of forgot about. And so, you can see how it rubs a pretty raw nerve, when there's all these reasons why we ought to take-- in which, you know, the tax revenue, whether it's coming from North Platte or, or Bellevue, is still going to be coming into the coffers. It's just this is a chance to do something so that that half of the state has something, anything.

RUSTY HIKE: Senator, I totally get that. I understand that. And one of the things I look at for Project Bellevue, if it's not good for Nebraska, it's not good for Bellevue. So we-- I have that bigger vision. You are you're-- I don't know that you're going to get those

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travelers to travel from Omaha to western Nebraska, especially if there's others out there. But it's crossing the border and getting other people, getting those entertainment dollars from other areas and, and providing that entertainment to the western Nebraska people. I-- certainly not opposed to western Nebraska having gaming or entertainment.

LOWE: All right. Thank you, Senator Brewer. Any other questions? Seeing none, thank you.

RUSTY HIKE: Thank you.

LOWE: Other-- good evening. Thank you for trying to be a gentleman.

CHRIS NIELSEN: Good evening, Chairman and committee. Chris Nielsen, 4552 Poppleton Avenue, LD 9. I'm here to speak on behalf or in opposition of LB148. I'm testifying on--

LOWE: Could you please spell your name?

CHRIS NIELSEN: --yes, N-i-e-l-s-e-n. I am testifying in opposition as the land owner/developer proposing the Kimball Resort. We are opposed to this bill as it furthers-- further muddles the application process. We support the need to address new licenses in western Nebraska, specifically west of the 100th Meridian, in a timely manner. However, the removal of the impact study for new licenses without any direction of analysis needs to be further addressed. We were at the Horse Racing and Gaming Commission meeting, July 2021-- meeting where many, many submissions were presented, many without the proposed cities' knowledge or approval. We went about this in a different way, gaining community support, which Kimball City Council, Kimball County Commissioners signed a letter of support, including letters from the school board and county sheriff. We are prepared to respond to a defined application process, which, as of today, none exists. I appreciate the legislators' attempt to not leave western Nebraska behind in the dust, but the application process needs guide rails and economic study to support the best selection-- best site selection for future licenses. Thank you. Open to any questions.

LOWE: Thank you, Mr. Nielsen. Any questions? You drove a long way.

CHRIS NIELSEN: I'm from Omaha.

OK. You didn't drive far.

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Well, I was born and raised in Kimball, Nebraska.

LOWE: All right. Has the, has the start of Kimball Resort started now?

CHRIS NIELSEN: That is the rendition of it. And we can't start until we get permission from the Horse Racing and Gaming Commission. However, the housing project that's adjacent to that, Clean Harbors announced a \$150 million expansion. I am working on 234 housing units, a mix of multifamily, single family. And there's another gentleman, Jim Gray and Dan Graves, that are doing another 400 units, because I know a lot of people are going to ask, how are you going to house these? What's the unemployment rate? We generally get a lot of travelers up from Colorado and a lot of them are moving into Nebraska, as the front range continues to expand. And in those numbers, it shows our projections, which I had the opportunity to go last, so I got to listen to all the fuzzy numbers. So that's why I'm a proponent of doing an impact study, because we're all using numbers. Kimball's 125-mile radius is 3 million people. Scottsbluff is 900,000. It's better than Omaha. So it's kind of where we think Kimball is the best location. Until we have an impact study, it's tough to determine if Scottsbluff is better, Kimball, Ogallala, North Platte, so we just want a fair shake out of it.

LOWE: OK. Thank you very much. Any questions? Seeing none, thank you very much.

CHRIS NIELSEN: Thanks.

LOWE: Other opponents? Come up, Ms. Fairchild.

LORETTA FAIRCHILD: I am Loretta Fairchild, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d, PhD economist, raised on a small farm in the Panhandle and my heart is with all of rural Nebraska. What's wrong with LB148? The list is long and appalling. It is a stab in the back to rural Nebraska as a whole, while carrying water for a small number of those who want slot machines now. Page 9, lines 26-31 is the poison pill. Please don't give LB148 any significant time in committee. Now I'm going to stop and change my testimony, because what I have learned here is that what needs to be changed really quickly is the distribution of the property tax revenues. Senator Brewer is totally right, as he framed the fact that western Nebraska-- rural Nebraska is left out. And so-- but the piece that's the problem in this, it never registered with me before, isn't it 25 percent of the taxes go to the counties where the casinos are located. That's the driving force that

makes everybody want a casino, but the casino is damaging. We have to get that property tax money rearranged so that it's a statewide distribution of the money. Then we don't have this insane building of more things that don't make any sense in the economy. So please figure something out, quickly, so that-- because it's always been in my head that property tax relief was a statewide issue. I've been telling you over and over, it's supposed to be funded from an income tax. It is ridiculous to assume that gambling revenues are going to fund decent property tax relief. So please, everybody shift the focus of what's changing to get the property tax money, from every source, out to Nebraska in an equitable fashion, which means a bigger chunk for rural people on a per capita basis. Thank you.

LOWE: OK. Thank you very much. Are there any questions for Ms. Fairchild? Seeing none--

LORETTA FAIRCHILD: Just keep your eyes on economic realities. All the numbers we've been hearing about, wonderful, wonderful estimates, leave out the costs. Just stick to economic realities, which is property tax relief funded by the income tax. Sorry. Thank you.

LOWE: Thank, thank you very much, Ms. Fairchild. Are there other opponents? Seeing none, are there any in the neutral? Seeing none, Senator Jacobson.

JACOBSON: I want to walk slowly so that you can get the full--

LOWE: Keep it up. Thank you and that ends the--

JACOBSON: I deserved that. I deserved that.

LOWE: Let's see. There were letters: two proponents, one opponent and none in the neutral.

JACOBSON: Thank you. I'm going to be as brief as I've ever been. But, but really-- but don't-- why do I know all you too well? So-- well, let me just say, again, thank you for being here. Thank you for staying so late. And let's also-- I'll talk to Barry DeKay and tell him that it's not all that bad. He could have been on, he could have been on this committee. Well, to wrap up, let me just say there were several things mentioned. I think when I was elected and when I ran, I heard one thing loud and clear, and that was property tax relief. And the last testifier is correct. Property taxes are a problem and people want them lowered. And this is an opportunity for us. Right now, when I look across the state, let's remember what the, what the voters

voted for. I want to reiterate, the voters did not vote for six racetracks. It did not say six racetracks in the initiative. It said licensed racetrack facilities. That's what it said. That's the language. Sixty-eight percent of the voters voted for this initiative. That, that decision has been litigated. If you hate gambling, great. But the fact of the matter is, 68 percent of the voters disagreed with you and they said that they want this. What I'm saying is that this should have been statewide. And I think the gaming and-- Racing and Gaming Commission is able to make those decisions. And the last I checked, Kimball is west of the 100th Meridian. And if they want to throw an application in with this bill passage, then they can certainly do that. And the Racing and Gaming Commission will reevaluate that. I will tell you that they're going to look at Class I cities as having the infrastructure in place. They're going to look at those that are located on I-80 and particularly those that can get the Colorado traffic from I-76 into Nebraska and dump it into I-80, along with the I-80 traffic coming from the west, which, frankly, makes North Platte a great location. But this isn't about just North Platte. This is any location west of the 100th Meridian and we're allowing the western half the state to have an opportunity to participate in this because the studies aren't going to tell us anything different. What's a study going to tell us? That the racing commission can't decide? What's the study going to tell us that the, the, the, the operators haven't already done on their own? They're, they're capitalists, as well. They're not going to invest their money in this if they don't think that they can make this work. So the concern is this was arbitrarily done to begin with. There are six tracks in the west-- in the eastern part of the state. I can tell you that we're the only one that would be located on I-80 at this stage of the game. And I-80 delivers a lot of traffic, as was mentioned before. I don't care how many people live in, in the Omaha/Council Bluffs area. How many people come down that interstate every day from both directions? It runs two ways. OK. So we've got a lot of traffic coming there now, plus the traffic, plus the population that's in the area today. I think we need an opportunity. I would tell you, as you all are well aware, tomorrow is the deadline for priority bills. I have not declared my priority bill yet. This is one of the candidates. If everything comes down today and I've, I've been here and in Banking Committee, but I'm assuming that I've got one bill that I'd like to prioritize. It's hung up in committee. I've got another bill that's going to likely be prioritized depending on what two of you do tomorrow on-- in terms of allowing the priority for the 4H bill. So I'm counting on the two of you on that, as a committee priority. No pressure. So that brings me

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to the racino as a priority bill, if you would vote it out of committee. So I am prepared to prioritize it if you can get it out of committee. So with that, I'd ask for any questions. Last, last shot.

LOWE: Thank you very much. And thanks for staying.

JACOBSON: Hey, I had no choice.

LOWE: You're buying dinner, aren't you? Are there any questions? Seeing none, thank you, Senator Jacobson. This ends the hearings for LB148 and the General Affairs Committees for the year.