

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

[LB173 LB230 LB259 LB273]

The Committee on General Affairs met at 1:30 p.m. on Monday, January 28, 2013, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB173, LB230, LB259, and LB273. Senators present: Russ Karpisek, Chairperson; Colby Coash, Vice Chairperson; Dave Bloomfield; Jerry Johnson; Bob Krist; Scott Lautenbaugh; John Murante; and Ken Schilz. Senators absent: None.

SENATOR KARPISEK: Okay. I think we're going to get started. Welcome to the General Affairs Committee. For the record, my name is Russ Karpisek and I chair the committee and I am from Wilber, which is spelled with an "e" not a "u." I try to educate everyone every time I can. (Laughter) The members of our committee, we have Senator Murante from Gretna to my far right; and then we have Senator Bloomfield from Hoskins; sitting next to him will be Senator Lautenbaugh of Omaha. He is introducing a bill in Education right now. Then we have our Vice Chair Senator Coash from here in Lincoln. To my immediate right is Josh Eickmeier. He's our legal counsel from Seward. Sitting next to me will be Senator Krist of Omaha...

SENATOR KRIST: Here. Accounted for.

SENATOR KARPISEK: ...there he is, who used to be our Vice Chair but he got fired. (Laughter)

SENATOR KRIST: Rightfully so.

SENATOR KARPISEK: Next to Senator Krist will be Senator Schilz of Ogallala; and then we have Senator Johnson of Wahoo. Christina Case is our committee clerk. Pages helping us today are Cicely Batie and Colton Wolinski. Very good. Almost like Czech, right? Is that Polish? (Laughter) We got to have a little fun, don't we? I think I'm funny so if you laugh that helps. (Laughter)

SENATOR JOHNSON: It goes a lot better.

SENATOR KARPISEK: There we go. After each bill introduction, we would like to hear testimony first in support of the bill, then in opposition, and finally neutral testimony. If you are planning on testifying in any capacity, please pick up a sign-in sheet that is on the table at the back of the room at both entrances. Please fill out the sign-in sheet before you testify. When it is your turn to testify, give your sign-in sheet to one of the pages so that they can give it to the committee clerk. This will help us make a more accurate public record. If you have handouts, please make sure you have ten copies for the page to hand out to the committee. If you don't have that many, please let the page know and they will go make you more copies. When you come up to testify, please speak clearly into the microphone. Please tell us your name and spell your first and last

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

name, even if it's a common name like Karpisek or Wolinski. (Laughter) Also, please tell us whom you are representing, if anyone. Please turn off your cell phones, pagers, or anything else that might beep. Please keep your conversations, arguments, cheering, or booing to a minimum or take them out in the hallway. Finally, while we do allow handouts, we do not allow visual aids or other display items. Thank you for your cooperation and we will begin our bill hearings with Senator Coash's LB173. Vice Chair Coash, welcome. [LB173]

SENATOR COASH: Thank you, Chairman. Thank you, members of the General Affairs Committee. For the record, I'm Colby Coash, C-o-l-b-y C-o-a-s-h, representing District 27 right here in Lincoln. It's a pretty simple bill. This bill amends the statute that says what kind of proof is allowed to purchase or consume alcoholic beverage. In our state right now, the statute says that we will only...among other things, we will only accept Nebraska state ID cards. But as you know, there are other states who have ID cards as well--49 of them--and this bill would say that we would accept any of those ID cards just as we would accept their licenses. There's a good reason for this bill. We have a lot of out-of-town guests that come into our state, into our communities, for different events, and they don't...they may have ID cards and they may not be Nebraska, and we want to make sure that those ID cards are recognized as valid proof of age in order to purchase or consume alcohol. So with that, I will close. [LB173]

SENATOR KARPISEK: Thank you, Senator Coash. Do we have any questions? Seeing none, thank you, Senator Coash. Do we have any proponents of the bill? Welcome, Mr. Otto. [LB173]

JIM OTTO: (Exhibit 1) Thank you, Senator Karpisek. My name is Jim Otto, J-i-m O-t-t-o, and I am a registered lobbyist for the Nebraska Retail Federation and the Nebraska Restaurant Association, and I am here to testify in favor of LB173 on behalf of both associations. I want to thank Senator Coash for introducing the bill. It has caused some...the present situation has caused some concern and some confusion, especially in border...in the Omaha area where sometimes Iowa IDs would come over. I think sometimes there's actually been some confusion at the Omaha airport where maybe a blind person could not buy alcohol in the...at Eppley Airfield because they did not have a Nebraska ID. So we think this is a good idea. I also have a letter in support of LB173 from Kathy Siefken, executive director of the Nebraska Grocery Industry Association. Just she can't be here because of a conflict with another committee. [LB173]

SENATOR KARPISEK: Thank you, Mr. Otto. Any questions or comments for Mr. Otto? Senator Johnson. [LB173]

SENATOR JOHNSON: Thank you, Senator, Mr. Otto. Just a general question. Is there any concern in false IDs that are created in other states and for us to be able to identify that? How standardized might these be throughout the other states? [LB173]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

JIM OTTO: I think Mr. Rupe can speak to that better than I can, but as I understand it, that used to be more of a concern than it is today because out-of-state ID...it's pretty tough to duplicate a Nebraska driver's license or another state's driver's license with the bar code, etcetera, that's on the back of most states' driver's licenses. It used to be, I think, that it was easier to duplicate an out-of-state ID, but now with modern technology I think that's mostly in the past and that other states' IDs are also pretty hard to duplicate. But that's my impression. [LB173]

SENATOR JOHNSON: So they've come up to speed like we have or whatever. Thank you. That's all I have. [LB173]

SENATOR KARPISEK: Thank you, Senator Johnson. Any other questions? Seeing none, thank you. Do we have any other proponents? Welcome. [LB173]

BRUCE BOHRER: Good afternoon, Mr. Chairman. Bruce Bohrer appearing on behalf of the Lincoln Chamber of Commerce, last name is spelled B-o-h-r-e-r, as Bohrer commonly is spelled (laughter). [LB173]

SENATOR JOHNSON: In your family. [LB173]

BRUCE BOHRER: Yeah, in our family. We hold the contract that the Chamber of Commerce with...for the Convention and Visitors Bureau, and so we are, I'm sure as you all know undertaking to build the Pinnacle Bank Arena. And so we see that we're probably going to be welcoming more and more out-of-state visitors, hopefully, to Lincoln and the rest of the state. So we see this as a sensible move to kind of maybe head off some complaints. We've got a visitor center down in the Haymarket, too, so I could envision some people stopping in from time to time and saying, what the heck, you know. I've got this out-of-state ID card and you can't use this. You know, a lot of these younger kids, if they're from a little bit larger community, don't deal with their own vehicle. They probably get around through public transportation. So we think it's a sensible idea and we want to support it. Any questions? [LB173]

SENATOR KARPISEK: Any questions? Seeing none, thank you. [LB173]

BRUCE BOHRER: All right. Thank you. [LB173]

SENATOR KARPISEK: Do we have any other proponents? Welcome. [LB173]

HOBERT RUPE: Good afternoon, Chairman Karpisek and members of the General Affairs Committee. My name is Hobert Rupe, common spelling, (laughter) H-o-b-e-r-t R-u-p-e. I am the Executive Director of the Nebraska Liquor Control Commission testifying in support of LB173. Just sort of to answer some of the questions a little

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

historically. It always was the fear that out-of-state IDs were easier to fake or...I mean, heck, you could almost order them out of the back of magazines back at one point in time. One of the, I guess, silver linings out of what happened on September 11, 2001, is many more states have gotten more proactive on updating their...not only their IDs but their driver's licenses, incorporating more security features. And so when this bill first was being discussed, I spoke with Beverly Neth down at DMV and confirmed that, you know, almost every state's IDs now have exactly the same security features that their driver's licenses do. So if we're going to be accepting their driver's license, a lot of the reasons for not accepting their IDs has gone away because they do have the same security features. There were a couple of instances which brought this to the commission's attention, why it was in our legislative letter. Jim Otto sort of touched on a couple of those. We got a lot of complaints right out of Omaha after both the swim trials and the College World Series because a lot of out-of-state visitors, especially from more urban areas, often don't have a driver's license and were finding it, you know, somewhat strange that the same ID card which got them on the airplane through TSA was not able to let them get a cocktail at a location. There was also this confusion. The Old Market area gets and sees a lot of out-of-state IDs. Some people from Iowa were attempting to purchase. They were declined because they had out-of-state IDs, not driver's licenses. They were upset. They went outside. They found an OPD officer who went in to the establishment and said, well, yeah, you can accept it. And the bar manager actually pulled out at that time the red book, now the new purple book, showed him the statute and said, no, I can't. And, oh, the OPD officer was even unaware that they were not able to be utilized for that function. So given that, we believe that this bill is a good bill. It sort of updates it. I will share, Senator Johnson, we do have concerns about fake IDs. We still do. Unfortunately the days of it being the person with the steady hand and the X-ACTO knife in the corner of the dorm room are long gone. Now unfortunately most of your IDs are acquired over the Internet, usually from foreign countries utilizing digital technology and they're pretty good. You've got to be...you know, so there is, there still are fake IDs out there but the technology has changed. They're coming a lot of times from overseas where you send a digital photograph and the \$300 to \$500 in your PayPal account and you're getting an ID which has your picture on it, your ID, and other than some of the really deep, embedded security features, it walks and talks like a, not only a Nebraska ID but almost any other state's. It was sort of funny up until about ten years ago when Nebraska changed it, our IDs were something more...considered some of the more easier ones to fake in other parts of the country back when it was just sort of a monochrome color and they were somewhat easy to get ahold of. So it's sort of, it's an ongoing technology war on fake IDs. But in this case here, this bill is designed to go for a valid out-of-state identification card and whether it could be utilized. The one instance which happened at Eppley, I spoke with the individual. She was a blind person in town visiting. She was legally blind so she of course did not have a driver's license. She had a New York ID. She was 37 years old. And she was asked for an ID and when she failed to produce it, Eppley Airfield correctly refused service. Well, you know, that's sort of one of the instances why this commission felt it was important to bring this to the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

attention of the Legislature in a legislative letter and also to support Senator Coash's bill. I'd be happy to answer any other questions. [LB173]

SENATOR KARPISEK: Thank you, Mr. Rupe. Senator Krist. [LB173]

SENATOR KRIST: Thank you, Chair. You led into my question. What about international driver's licenses? We cover passports. We don't cover international driver's licenses. [LB173]

HOBERT RUPE: So far the only international driver's licenses that we've sort of accepted and it sort of...and it's not really in there, traditionally Canadian driver's licenses have been accepted, and so were Mexican because of the nearby. I know a lot of border states, you know, that was sort of the, you know, "you accept ours, we'll accept yours." A lot of the questions I think with tighter border security are being laxed because now you can't even go...you used to be able to go to Canada and come back without a passport. Now you can't. So I believe that some of the changes in security have now answered some of those questions. [LB173]

SENATOR KRIST: We had a international student come visit who was 23 years old with a French driver's license and was refused service, so I bring it up. He actually produced his passport which ended the dilemma. [LB173]

HOBERT RUPE: Yeah. [LB173]

SENATOR KRIST: But I bring it forward because Omaha is an international town, you know, so. [LB173]

HOBERT RUPE: Yeah. Well, I think that's one of the reasons why a passport there is, also your alien identification card, is a legal ID, government. So even in those situations there are other things which hopefully someone here who should be able to prove that they have it. [LB173]

SENATOR KRIST: So the commission would not support or is not ready to support an amendment that would put international driver's licenses also on the list? [LB173]

HOBERT RUPE: I've never been approached by that. I've never ran or done the research. I'd be hesitant to put a position one way or the other at this point in time. I've never really looked at it. Traditionally, given our location, the only out of the country ones we saw used to be Canadian IDs, Canadian driver's licenses. [LB173]

SENATOR KRIST: Okay. Thank you. [LB173]

SENATOR KARPISEK: Thank you, Senator Krist. Any other questions? Seeing none,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

thank you. [LB173]

HOBERT RUPE: Thank you. [LB173]

SENATOR KARPISEK: Any further proponents? I will read into the record a letter of support from James Moylan, lobbyist for Nebraska Licensed Beverage Association. (Exhibit 10) Do we have any opponents? Welcome. [LB173]

NICOLE CARRITT: Good afternoon. My name is Nicole Carritt. I'm here representing Project Extra Mile, N-i-c-o-l-e C-a-r-r-i-t-t, again, representing Project Extra Mile. We're a network of community partnerships across Nebraska working to prevent underage drinking and youth access to alcohol. We're here today to oppose LB173. We do understand why this proposal was introduced. However, after speaking with several of our law enforcement partners over the past several days, we know that when underage youth use false identification in their attempt to purchase alcohol, the majority of the time they use IDs from states other than Nebraska. These youth fully understand that retailers are less familiar with out-of-state forms of identification and that using them presents a greater likelihood that the sale of alcohol will be made. Retailers have an important responsibility for ensuring that sales of alcoholic beverages are made only to persons who are legally permitted to purchase alcohol. Inspecting government-issued identification is one of the major mechanisms for ensuring that buyers meet minimum age requirements. The proposed change in the provisions would create challenges for alcohol servers and sellers by requiring them to know all states' government-issued identifications and to know them well enough to identify one that is falsified and then to refuse the sale. Retailers do not need additional challenges in preventing the sale of alcohol to minors. And, Senators, youth don't need additional policy changes to ease their access to alcohol. Thank you, Senators. I'd be happy to answer any questions you may have. [LB173]

SENATOR KARPISEK: Thank you, Ms. Carritt. Any questions? So I would agree with out-of-state, probably, driver's licenses, but do you think the just ID cards, I don't know how in-depth you went with the police, but did you get into that? Do they use ID cards more than a driver's license if they're going to try to fake it? [LB173]

NICOLE CARRITT: We didn't really get into that depth but they did just acknowledge that the majority of the time when they run into a minor trying to use false identification, it's typically, they didn't, you know, go into driver's license or others, but that it's typically the majority of the time from a state other than Nebraska. [LB173]

SENATOR KARPISEK: Thank you. Senator Krist. [LB173]

SENATOR KRIST: Obviously you don't have the information available to you, but if you could, could you in terms of your research could you forward to the...to our resident

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

lawyer the list of law enforcement agencies that you actually contacted and received those, that input? [LB173]

NICOLE CARRITT: Sure. [LB173]

SENATOR KRIST: Thank you very much. Appreciate it. [LB173]

NICOLE CARRITT: You're welcome. [LB173]

SENATOR KARPISEK: Thank you, Senator Krist. Any other questions? Seeing none, thank you for your testimony. [LB173]

NICOLE CARRITT: Thank you. [LB173]

SENATOR KARPISEK: Do we have any further opponents? Do we have anyone neutral? Seeing none, Senator Coash to close. [LB173]

SENATOR COASH: Thank you, Chairman. Thank you, members of the committee. In closing, I disagree that this will result in more minors purchase alcohol. We do accept valid out-of-state driver's licenses. All of the retailers are expected to know all other 49 states' driver's licenses and what they look like. The ID cards look no different. So I don't see an extra burden put on retailers because I think once they understand the driver's license, which is already their responsibility, they'll understand state IDs as well. I will also remind the committee the burden is on the licensee. We issue a license to sell alcohol either for off-site or on-site consumption. That licensee is held responsible should they accept a fake ID whether it is a ID card or a driver's license. And so we're not removing any burden on checking those. And, finally, I'll just bring to the committee's attention that the Department of Motor Vehicles provides licensees with a book. And in that book has a photo and the nuances of every state's ID, and those are provided at will to licensee holders so that they have access to the information that they need to be able to tell whether or not a form of identification is valid or not. So with that, I will close and... [LB173]

SENATOR KARPISEK: Thank you, Senator Coash. Any further questions? Seeing none, that will close the hearing for LB173. And I will turn the chair over to Senator Coash. [LB173]

SENATOR COASH: Okay, Senator Karpisek. You are recognized to open on LB230. [LB230]

SENATOR KARPISEK: Thank you, Senator Coash and members of the General Affairs Committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. I am from Wilber, Nebraska. LB230 would prohibit out-of-state retailers and distributors from

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

directly shipping to customers in Nebraska. The intent of LB230 would be to strengthen our three-tier system. Section 53-123.15(4) of the Nebraska Liquor Control Act states that, "The commission may issue a shipping license to any person who sells and ships alcoholic liquor from another state directly to a consumer in this state." In other words, current law states that anyone may obtain a direct sales shipping license to ship alcoholic liquor directly to a consumer in Nebraska. LB230 would allow only manufacturers to obtain a direct shipping license with the exception that a wine manufacturer that produces 250,000 gallons or less of wine annually may ship their product to Nebraska consumers through an exclusive importer with a Nebraska direct sales shipping license. This would still allow these smaller wineries to form an association to contract with an exclusive importer which could help defray the costs of a direct sales shipping license by spreading the cost amongst the association's members. Now, there were some concerns from the small winery organizations regarding the exclusive importer. So I am offering an amendment to strike that section of the bill. So under this amendment now the whole part of the bill would only be to have manufacturers to direct ship and strike "persons." This did come from the Liquor Control Commission and so I'm sure Mr. Rupe will be able to shed a little more technical light on it. In my opinion, this helps our three-tier system, the manufacturer, distributor, retailer, that we talk about a lot in this committee. So with that, I would be glad to take any questions. [LB230]

SENATOR COASH: Thank you, Senator. Any questions from the committee? Seeing, none... [LB230]

SENATOR KARPISEK: Thank you. [LB230]

SENATOR COASH: ...we will move to the proponents of LB230. Welcome back, Hobie. [LB230]

HOBERT RUPE: (Exhibit 2) Welcome back. Thank you. Thank you, Senator Coash and members of the committee. Once again, 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. One of the main jobs of the commission by statute is to raise issues before the Governor and the Legislature about perhaps changes or updates to the act or at least sort of reviews the parts of the act which they feel as appropriate. To do that I'm going to give you a brief little history, the thumbnail history of direct shipping in Nebraska. Prior to 2001, it was the Wild West of the Internet. People were shipping it in, there were wine-of-the-month clubs, but it was pretty small because the Internet was still just small and just growing out from a retail site in the 1990s. In 2001, Senator Janssen introduced a bill which created what are commonly called the S1 licenses, and that's what we're dealing with here today. The S1 license was an attempt...there were two primary purposes of the bill as introduced. One was to sort of level the playing field and make sure that somebody shipping into the state of Nebraska, they're having to pay the same excise tax that a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

retail sale would take place in Nebraska. And the other one was also sort of to corral the market and license those entities but still allow access to the market from those...to those individuals, those final-end consumers. All right. They started in 2001. In 200...today we have 290 S1 liquor licenses. We have 286 Class S liquor licenses. Those are the ones who actually are licensed to ship to...licensed wholesalers for them to sell to retailers. So finally this last year is when the number flipped. We have more people direct shipping in to final-end consumers than we do actual people directly into wholesalers. Now the numbers on that is still pretty good. In 2011, that's the last year we had the full tax picture for, the reports are just coming in now, so we won't have the final idea until probably the middle of February, but in 2011, there were 31,000 gallons of wine shipped into Nebraska. Paid at the 95 cents per gallon, that was \$32,300 in excise tax that went to the General Fund. On top of that, all of those 290 pay a \$500 license fee. Many times I've heard complaints of that's sort of high, it's comparatively high compared to other places in the nation. Once again in 2001, Nebraska was sort of on the cutting edge of creating the S1 liquor license. I would just ask people to compare that to an off-sale wine shop in Nebraska. Say they're in Omaha. They're paying an annual license fee of \$250 but they're also subject to an excise tax of up to \$500 on top of that. So their license usually is coming out about \$750. If they have a Class C liquor license, they're paying \$900, \$300 and then up to twice. So that sort of gives you an idea of where we're looking at. And how did this come to the commission's...back up a little bit, the language says any person. We've always known there was a wine-of-the-month clubs and some retailers. What we did was I'm going to hand out a package that shows as of last week, so it's actually I think about 289 because we've had a couple of applications, that shows the holders of the S1 licenses so you'll be able to look at it. The vast majority of those license holders are wineries. The other entity who they mostly are, we've always sort of...we've had often requests, you know, three or four small wineries which want to sort of band together to ship those...to ship wine versus...you know, because it's sort of cost-effective for one person to get the license and do it. So we've always sort of allowed these co-ops of wines and there's always been some retailers. I think where the change has happened of late is twofold. First off for the first year ever, we have more direct shippers than we actually have normal shippers. So access to the market is, you know, I mean that's been met. The other issue is you've actually had the sort of mega retailers on-line starting to get into the wine business, primarily late December, which is one of the reasons why the commission asked me to look at this and have you look at it. Amazon announced it was getting into the wine business. Now apparently Amazon is not getting a license themselves; they're serving as a portal for existing S1 wineries and licensees. So at least from the pact that the actual shipping is coming from a licensee, they're probably okay. I will say we are still investigating as to the way they're being paid. Amazon might be selling wine without a liquor license if they're receiving a percentage of the sale in Nebraska. Because if you receive a percentage of the sale of liquor, you should have a...you're supposed to have a liquor license. So that was the one issue, sort of the tipping point where the commission said, wait a minute. Maybe we need to have the Legislature look at this. We

haven't touched this since 2001. What's happened nationally since 2001? Well, finally the Supreme Court answered the direct-shipping question in the case of Granholm v. Heald where some states were allowing in-state entities to ship but not out-of-state entities. Primarily in that case involved Michigan and New York. The Supreme Court said, you know, the Twenty-First Amendment means what it says. The states have the ability to regulate and promulgate rules and regulations and statutes regulating how they can sell alcohol. However, they need to do it in an impartial manner and can't choose in-state entities over out-of-the-state entities. You know, I mean if you're going to allow one to do it, you need to allow the other one to do it, because it was sort of a balancing act between Twenty-First Amendment concerns and the Commerce Clause issue. So given the fact that we've got entities involved in sort of the retail sale, at least trying to, that were never sort of envisioned back in 2001, the commission felt it was important for this legislation, this committee, to look at this. Given the fact that we have more S1 licenses now than we actually have the direct regular shipper licenses sort of was a tipping point, said maybe it was time to revisit this issue. And so that was one reason in our legislative letter we requested a revisit. And as you said, Senator Karpisek's bill is, you know, limited to manufacturers. Manufacturers are under the act--they are described, they are a defined term--includes agents of the manufacturer. So that would normally be if you're an out-of-state winery, you have an importer agent into the...out of the country, you have an agent importing it. That person could then get an S or an S1. A lot of the individuals who have S1's also hold S licenses because you'll see some big wineries on there. To let you know about enforcement concerns we've had recently on S1 licenses, over 10 percent of them renewed late last year, with 30 late renewals out of 290. So, you know, that's not a really good record that, yeah, it's somewhat a, you know, a small number. It's not a major penalty. They can renew within that 30 days and pay a fine, but it sort of shows that they're not up to snuff on all issues of the Nebraska Liquor Control Act. We also had eight primary enforcement actions, six of those were against individuals who shipped more than the available amount. The act says that a person can have no more than nine liters per month directly shipped into them. That's not in the direct shipping statute. That's in another portion of the act. It's basically our antbootlegging statute. You can't bring it in the back of your trunk either, more than nine liters. Amazingly enough, that's the only place in the act where we talk about liters instead of gallons. Why is that? Because that works out to be a case of 12-750's, the most common spirits and wine sizes. There were six hearings on a winery they pled guilty to shipping more than nine liters. Actually, they actually were pleading guilty to more than 18 because we, from an enforcement standpoint given the fact that if you're a married person, married couple, both of you could get up to 9 liters, the kickoff was really over 18 liters. So there were six violations of that. There were two violations of a winery, the Francis Ford Coppola Winery, holder of a Class S license deciding that that also gave them direct shipping license abilities, and they also direct shipped and they paid a fine and now have an S1 license. So we did bring them into compliance. But that would sort of give you an idea of sort of the landscape of the S1 license as we sit right now. As the act reads right now, any person can get a liquor license for S1. I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

mean, it reads any person. I'm not sure that was the intent. I think the intent back at the time was on wineries or small boutique locations, wine-of-the-month clubs to be able to direct ship. And that's primarily who still has it. However, the Internet is changing and we've got mega retailers like Amazon deciding to get into the alcohol business. I think it's incumbent upon the commission to request the Legislature review the act. And with that, I would be happy to answer any questions. I know I was a little technical and a little boring, so I apologize for that. (Laughter) [LB230]

SENATOR COASH: Thank you, Hobie. Senator Krist, do you have a question? [LB230]

SENATOR KRIST: Thank you, Chair. Talk to me about the amendment, significance in terms of what the amendment would...what the current language does and what the amendment is going to allow them to do. [LB230]

HOBERT RUPE: The amendment is to restrict that to manufacturers. Manufacturers would be the person who actually is making the product and wanting to ship the product, sell the product. It would also allow...because our...manufacturer is a defined term, allows authorized agents. In my mind, it would still allow most of the people who have licenses to keep their licenses. The main difference the amendment would do would be at places that are pure retailers, and I'm sure you'll hear from some who are here as to how it works. People who are pure retailers it might affect. The impetus why the commission would look at trying to contain where the product is coming in is you want to know the source of alcohol when it's entering your state in case there's a problem with it, in case we need to backtrack on it in case there's a problem. Right now if you go to any grocery store and buy a bottle of, let's just use a nonwine for example, let's use Captain Morgan, I know every bottle on every shelf in this state has gone through the Sterling warehouse up in Omaha, Nebraska. All right. And as you see more and more retailers getting into it instead of just the actual manufacturer of the wine, I'm not sure I have that ability to backtrack if there's problems. You know, right now if you have just the manufacturer or an authorized exclusive agent and there's problems and it's an S1, I know they bought it, we might be able to backtrack and make sure there's not a problem. I mean, it's...the United States is very lucky from the three-tiered system. It's a...part of the three-tiered system that doesn't get talked about a lot, we don't have people in our country dying from drinking tainted alcoholic product because there's a licensed distribution chain from import to manufacturer to distribution. Other parts of the world do have tens of thousands of people who die from drinking tainted alcohol they thought was safe. We don't have that. So any time, you know, you're looking at, in this case here not so much a law ten years ago which was sort of controllable, but might be the changes in the society might require we look at that. We look at it from a health, safety, and welfare aspect. You know, we'd like to be able to track where the alcohol is coming into the state from. [LB230]

SENATOR KRIST: Do...follow on and one other if you would, Chair, do other states do

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

this to our wineries? [LB230]

HOBERT RUPE: Well, if other states would do this it would not affect one of our wineries. Our winery as a manufacturer would be able to get it and ship it in. More and more states are allowing direct shipping to a lesser or a greater degree. We were short on the forefront. Our act was pretty early on in the process, pretty open in the process. Some states have become as liberal or more conservative, depending on what's in the state. So it's sort of, you know, more and more states post-Granholm are allowing direct shipping. Oftentimes it is limited only to manufacturers. I know that there's a representative from wine.com who can probably...might be able to tell you what states he can and cannot ship into because some states won't allow retailers to ship into it. So, you know, it's sort of a hodgepodge as how it's looking at it. And so I think that it was important that the commission recommended this committee review that, decide do changes need to be made and, if so, what's the appropriate change. And that's... [LB230]

SENATOR KRIST: The suggestion that you just made would say that other states are guilty of the Interstate Commerce Act because they're restricting shipment of alcoholic beverages into their state. But does that go back to the Twenty-First Amendment? [LB230]

HOBERT RUPE: It goes back to the Twenty-First Amendment. It goes back to Granholm. If a state doesn't want to allow their own in-state wineries to direct ship to final-end consumers within the state, they don't have to let anybody out of state to do it. You know, that's, you know, the Granholm case boiled down said, you know, you sort of have to balance the Twenty-First Amendment rights vis-a-vis the Commerce Clause. You can't use the Twenty-First Amendment to give your in-state entities a benefit that you're then keeping out-of-state entities from doing. If you're going to do it, you have to do it from both. In our state right now, we allow shipping up from our wineries. We actually have more restrictive rules on our retailers. You know, that's a rule not a statute as to how...and depending upon what happens here, we might need to revisit those. [LB230]

SENATOR KRIST: Just a quick comment, too, if indulge me, Chair. I'm sorry that when I was in Greece people who would have their own wineries, their own wines, their own vineyards, would have to go to the local apothecary and have the mixture checked by them to make sure they weren't going to die of bad wines. And that's where the country of Greece or the local subdivision would imply their tax because it cost you so much to go to the store to make sure that your sugar and all additives were going to add up to not poisoned wine. [LB230]

HOBERT RUPE: Yep. [LB230]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

SENATOR KRIST: So we've come a long way I think. [LB230]

HOBERT RUPE: We have come a long way. You know, the most remarkable part, just as an aside, Eastern Europe right now is awash with tainted alcohol. [LB230]

SENATOR KRIST: Right. [LB230]

HOBERT RUPE: And part of the problem there was again the Internet because...and digital. You can make a label so it's almost identical to the real stuff, smack it onto a bottle in which half of the alcohol is real and the other half is coming from formaldehyde and you can sell it and people will die from it. [LB230]

SENATOR KRIST: That and the additive factors of distilled spirits to increase the alcohol content to... [LB230]

HOBERT RUPE: Yep. [LB230]

SENATOR KRIST: ...delay or speed up the fermentation process. So thank you, Hobie. [LB230]

SENATOR COASH: Thank you, Senator. Any other questions for Hobie. Senator Murante. [LB230]

SENATOR MURANTE: I've received a couple of e-mails on this subject, and one of the... [LB230]

HOBERT RUPE: I'm sure you have. [LB230]

SENATOR MURANTE: (Laughter) One of the assertions that I don't see in the bill but it's been asserted a couple of times, tell me whether you see it this way or not, but there is an assertion that the type of wine is being regulated by this bill, whether it is a domestic wine or a foreign imported wine, that they're being treated differently under this bill. Do you see it that way? [LB230]

HOBERT RUPE: I don't see that. I don't see that because if you, especially with Senator Karpisek's amendment where it takes it just back to a manufacturer, then you have to default to what is a defined manufacturer within the act. Not only does a person who manufactures the actual product--distills, blends, rectifies--but it also includes or a duly authorized agent of that manufacturer. That's sort of the area where an importer is. You know, if I'm going to import, say, some of this Greek wine that Senator Krist had spoke of, they're going to have to have a importer, a licensed importer, from the TTB in the United States. That product is going to land at a bonded warehouse and that person will then have to pay the bond to get it out of that bond. Now if they then ship it to Nebraska,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

they then would require either an S license to direct ship to a wholesaler or they could also require an S1 license to direct ship to a final-end consumer. So I don't believe that the bill itself would stop and treat out-of-state alcohol any differently than it's treated currently or out-of-country alcohol. [LB230]

SENATOR MURANTE: Out of county. Okay. And you had mentioned differences in fees depending on whether a retailer who's shipping in alcohol is in state or out of state or whether they're shipping at all. What's the difference in the fees if I'm a retailer liquor store in Minnesota shipping into Nebraska versus if I'm just in Gretna? [LB230]

HOBERT RUPE: Right now if they decided, you know, absolutely whatever Minnesota is getting, if they decide to get an S1 liquor license from Nebraska, they're paying \$500 for that privilege. What that does is it allows them to ship to a final-end consumer, it also requires them to file monthly reports with the commission, and then pay an annual tax, an excise tax. Nothing in the act currently would stop them from being a...selling distilled or beer. Traditionally, like I said, back in 2011, all we had was wine. And that's where the bulk of the S1 licenses are at wineries or at wine specialty locations. [LB230]

SENATOR MURANTE: Okay. And we, with this bill, will be doing away with anyone paying those fees unless they actually manufacture the liquor, is that correct? [LB230]

HOBERT RUPE: Yes. Yes. [LB230]

SENATOR MURANTE: So do you have any idea of how much money we're going to be losing? [LB230]

HOBERT RUPE: You know, we'd have to go back and look. You know, our fiscal note was on the low side in this case, about \$3,000. You know, the problem we have is it's hard for us to tell just by looking at the name of who it is. You can tell a lot by a name. If it's, you know, something family, you know, vintners instead of going back into that. I could tell you that it'll take about three or four days but my staff could probably let you know which ones appear to be retailers versus manufacturers. The way we have to do that is go back to their home state and cross-reference how they're licensed by that state. I'm thinking probably \$3,000 to \$10,000, maybe \$15,000 at the most. I could be wrong, and I'm sure Mr. Tomas (sic - Tomaszewski) actually might be able to shed more light onto that. Given the short time between this bill being introduced and coming up, it was hard for me to look at that. I did pull 50 S1 licenses, and out of those 50 only 2 would I identify as retailers, so the other 48 I would have identified as manufacturers. [LB230]

SENATOR COASH: Thank you, Senator. Any other questions for Hobie? Seeing none, thank you very much. [LB230]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

HOBERT RUPE: Thank you. [LB230]

SENATOR COASH: We'll take the next proponent. Welcome. [LB230]

JUSTIN BRADY: Senator Coash and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today representing the Nebraska Liquor Wholesalers in support of LB230. I'm going to deviate a little bit from my comments more so and answer some of the questions that were asked. My quick research looking at other states, and there may be some more updated information behind me, but as I understand, ten states don't allow any shipping into them. Then there are about...there are 13 states plus District of Columbia that are similarly situated to Nebraska where they allow any person or at least retailers and manufacturers, wholesalers to ship in. And the majority of states, 27 of them, have some sort of restriction that's down to just the manufacturer level with maybe some exception for small wineries. So like Hobie said, Nebraska is on forefront of this and at the time they put in the word "any person" as they thought about it in 2001, any person meant a winery, that they would be shipping in from the manufacturer. As you all know as time goes on and things change, we need to go back and readdress what "any person" means, and we believe at this point it means a manufacturer by our definition. Second of all, Senator Murante, you had made reference to a letter. I don't know which letter you were referring to. I was given a copy of one that was in opposition and I just thought I'd point out a couple of the items in it. One, it talks about that Nebraska will no longer be able to join wine-of-the-month clubs. This is a false statement. They still will be able to join wine-of-the-month clubs if they're coming from the manufacturer. If it's a retailer out there that has set up their own, his or her own wine-of-the-month club, no, they would not be able to. But to just make a blanket statement that Nebraskans would not be able to join wine-of-the-month club is inaccurate. As long as it comes from a manufacturer, they can still do that. You already...Hobie already touched on would they not be able to import wines from France or Italy or Spain. That's inaccurate because as he explained, they can use the agent that's in this country to ship into the state still. Nebraska would no longer enjoy the tax revenue. I suppose that's a debatable point. If you look at the fiscal note, arguably you could make the argument that the consumption level in the state may or may not change. If consumption...yes, if they aren't shipping it in and go to the local retail and buy it off the shelf, the tax is paid and, therefore, from a tax level standpoint, you guys are going to be where you were today with or without passing the bill. And then the last point that you're passing an antifree trade law, I suppose it depends on how you define it. I'd say in the alcohol-liquor industry there really isn't a free trade. It is a highly-regulated, highly-taxed product, and so it's tough to say, hey, don't do this because you'll be passing an antifree trade law on it. The other thing I was going to mention on taxes is, Hobie was correct that these out-of-state retailers or anybody who ships alcohol in has to pay the excise tax or they lose their shipping license if Hobie and his...and the Liquor Control Commission catch them. They aren't required and there isn't a way on some of them to make them pay sales tax. If they

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

operate under, quote, what I refer to as the Amazon model which says, we don't have any nexus in Nebraska, therefore, we don't have to pay sales tax. And when you have discussions with the Department of Revenue and Doug Ewald, he will say unfortunately if we can't reach out and declare him to have nexus, I can't go collect taxes from them. So, yes, they pay their excise tax but they don't have to guarantee to pay their sales tax, which the local retailers then and through the three-tiered system ensure that both those taxes, the sales and excise tax, are being paid. Finally as far as the amendment, I guess it was my understanding talking to Senator Karpisek and to Hobie that the way the original bill was set up would be to allow...to recognize that, quote, small wineries, that \$500 fee may be too steep, that they may only ship in one or two cases a year and giving them...asking them to go out and get a license by themselves was too high of a burden that we, quote, would let them or you would let them if you passed the bill as is co-op, if you will, together and work together. Through my discussions with different people who contacted me from around the country, that section caused confusion. They didn't like it. We were...it was one of those I think they were trying to help those people. They indicated they didn't care for it, so I think it's my understanding that kind of came to the conclusion, well, if it's the part we were trying to help with was causing the confusion and concern, you could take it out and go back to just what the original intent was to say let's just put manufacturers in instead of any person. So with that, I'd try to answer any questions you have. [LB230]

SENATOR COASH: Thank you, Justin. Any questions? I don't see any. Thank you. [LB230]

JUSTIN BRADY: Thank you. [LB230]

SENATOR COASH: Next proponent. [LB230]

JOSEPH KOHOUT: Senator Coash, members of the General Affairs Committee, for the record, my name is Joseph Kohout, K-o-h-o-u-t, and I appear before you today as a registered lobbyist for and on behalf of the Associated Beverage Distributors of Nebraska in support of LB230. At the outset, our association would like to thank Senator Karpisek for introducing this legislation at the request of the commission. By way of introduction, the Associated Beverage Distributors of Nebraska has 17 member companies throughout Nebraska, founded first in 1945. We employ over 500 individuals throughout the state, have an economic impact in the state of around \$70 million with \$26 million a year in wages. For the past few years, the Nebraska Liquor Control Commission under the leadership of Chairman Batt and Executive Director Rupe have done an outstanding job of identifying issues within the act that pose potential threats to the strength of Nebraska's three-tier system. Two, they have been willing to ask this committee and the larger Legislature to lead in the area of liquor laws to ensure that our system is one of the strongest in the country. Today, you have before you LB230 which will continue that, the strengthening of our act. Alcohol, in our case beer, is a regulated

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

product. It is not a product that is available to every person regardless of age. Instead, it is a product that we, as a society, have decided to control its distribution and sale. We control who sells it, manufacturers it, imports it, distributes it, and who consumes it. We do this through our Liquor Control Act. In fact, one could argue that there's just a twofold purpose for our Liquor Control Act: to limit consumption and to ensure the collection of excise and sales tax. This is why LB230 is so important to the totality of our Liquor Control Act. With the increase in shippers licenses that Mr. Rupe referred to, there is becoming an abundance of folks who can direct ship to consumers in Nebraska. These are consumers who may or may not pay the sales tax that we expect to collect as a state. Two, these are consumers who may or may not be of the appropriate age to purchase. Let me take just a moment and tell you why it is important to have local businesses with local folks who deal with the regulators. Two years ago, a product known as Four Loko was brought under scrutiny for being a caffeinated alcohol product. It was widely reported the youngsters were getting access to and abusing this product. Two, it was speculated that the product was dangerous for consumption. Many of our wholesalers had purchased and distributed this product. We actively worked with Mr. Rupe and the Liquor Control Commission to voluntarily stop the importation of this product in Nebraska and its eventual sale. This is what you should want and expect as legislators. We did this because we were all Nebraskans working together to ensure that other Nebraskans were safe. This is not a benefit that the commission would have with out-of-state shippers sending products to our state where they can't ship...they can't test the origination of. We want those local ties. We want those local distributors to be able to work with to ensure safe products hits our retailers. Thank you, Mr. Chairman and members. We support LB230 and ask that you advance it. I'd be happy to try to answer any questions that you might have. [LB230]

SENATOR COASH: Thank you, Joe. Any questions? I don't see any. Thanks. [LB230]

JOSEPH KOHOUT: Thanks. [LB230]

SENATOR COASH: Next proponent. [LB230]

TIMOTHY KEIGHER: Good afternoon, Senator Coash, members of the committee. My name is Tim Keigher, that is K-e-i-g-h-e-r. I appear before you today as the registered lobbyist for the Nebraska Petroleum Marketers and Convenience Store Association. And after all that the previous testifier has said, I will be very brief. We are here in support of the three-tier system. We are here in support of a level playing field as far as the taxes and everything being paid. And with that, I'd be happy to answer any questions. [LB230]

SENATOR COASH: Thank you, Mr. Keigher. [LB230]

SENATOR JOHNSON: Excellent. [LB230]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

SENATOR COASH: No questions. Do we have any other further proponents? Seeing none, we'll go to opponents. [LB230]

BILL TOMASZEWSKI: I don't know if I should stand up or not (laughter). [LB230]

SENATOR COASH: Please, you're welcome to. Welcome. [LB230]

BILL TOMASZEWSKI: Hi. My name is Bill Tomaszewski. Bill, common name, and "Tomazooski" or "Thomashushski," Polish, T-o-m-a-s-z-e-w-s-k-i. I am the general counsel for wine.com, and a marketing partner with Omaha Steaks. I am here today to discuss this bill. I want to say, one, I am strong proponent, I believe in the three-tier system. I love wholesalers. My business would not exist without wholesalers. I am a California retailer. I am a New York retailer. We have retail stores across the country locations where we ship wine. We've been shipping wine into the state of Nebraska since 2004 and with no problems since 2004. We do contribute to the local economy. We do pay our excise taxes. In the year 2012, we shipped a little over \$320,000 worth of wine into the state. I don't have the exact gallons, but we did it. And we've been good as citizens. We've followed the rules, and I feel this bill would penalize us for following your rules. That's why I'm here to speak out against it. I do think you can change the rules. I do think you can change the law to bring it up to date with the 2013, but I think we can do it if we look further into it and not do a knee-jerk reaction. Perhaps there's some big retail, Amazon, who's a competitor of mine who's recently got into the business, yeah, I don't want them in the business if they're not going to be licensed. I don't want them in the business if they're not going to do the right thing. But this bill won't affect Amazon. Amazon operates a marketing...a store, basically, where they're allowing wineries to come into their store and they're advertising that wine, that winery's products. They're taking the order, they do the transaction, and then they send the transaction to the individual winery who will then pick and pack maybe themselves or maybe they'll pick and...they'll send it to a third party, a fulfillment agency who will then ship it out. But this bill won't stop Amazon from coming in here because, one, they're not going to get a retail license, two, they're not going to get a shipping license. They're going to be operating totally on license, piggybacking on the back of the winery licenses. So as I said, this change won't do anything to stop them. We provide a service to the community. We're providing wines that maybe the wholesalers or the retailers in the state aren't carrying. We're giving our consumers choice, and we do operate within the laws. All our boxes that are shipped are marked to say wine. There're shipped. We go...use UPS. We pay for a fee where adult signature is required. They're not allowed to leave the box on someone's doorstep. The UPS truck drivers act as our clerks, our store clerks. They come in, they knock on your door, and you have to sign it, and they're obligated by contract to make sure that you're over 21. So we pay for that. And like I said, we've been good citizens. If you want to know any questions about direct shipping, I'm going to say this, I'm an expert at it. I've been doing this for nine years as a general

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

counsel for wine.com. I know the ins and outs. I know how to beat the system. I know how to work within the system. I'm willing to help you do that. But I'm willing to work together because, yeah, change the law but don't hurt me for being a good citizen. You know, that's why I'm here. We're working with Omaha Steaks, one of your biggest retailers in your state. We're working with them pairing up wine and steaks to be shipped together. So we're working...this will impact our business with Omaha Steaks which will impact some of their employment. And the other question is, yes, you can get nexus and, yes, you can charge sales tax. I have a direct shipping license into the state of Virginia. I have a direct shipping license into Louisiana as a retailer. We pay sales tax because you can write that into the law; because you can write into the law that says, hey, if you have this license, now we have nexus in this state and now you're obligated to collect sales tax. You want me to collect sales tax? I'll do it on a dime. I have no problems with that. I have the capabilities of doing that. But you can make every winery, every retailer, whoever ships wine into the state can be obligated to collect sales tax. That's another form of income for the state, nothing to blink at. And if you take retailers out of it, and you can tweak the wording where it has to be a licensed retailer, someone who's issued a license by another state. Instead of saying any person, you can say any person who is licensed by another state, which will further define that language. But if you take retailers out of it or whatever you see fit to do, I don't think it will stop direct shipping by other retailers into the state. I think what will happen is, and I've seen it happen in other states where they will just go under the cover of darkness, they'll start shipping in plain boxes, no labels, nothing, no adult signature, and you'll start having FedEx and UPS just leaving boxes on doorsteps. And, yes, then you will have a problem with underage drinking. Right now you don't because it's regulated. You know, Hobie and his team, they're regulating it and they're looking into it. You know, I'm a lawyer, I can talk all day. I've probably said enough. If you have any other questions, I'll be happy to answer them. I'll be happy to come back, help you, you want to do a study, I am at your service. [LB230]

SENATOR COASH: All right. Thank you, Bill. We'll see if we have any questions. We do. Senator Krist. [LB230]

SENATOR KRIST: Let's whittle it down. How does this adversely affect you? [LB230]

BILL TOMASZEWSKI: If you put...I am not a manufacturer of wine. I have a retail license in several states that gives me the ability to ship into other states, just as the gentleman from the wholesalers association said. He was pretty correct. He was pretty spot on with his numbers about where you can ship and where you can't. So in real big states where I can't ship into, I get a retail license and I ship. Like in New York, we just ship intrastate. New Jersey, we just ship intrastate. We have an 80,000-square-foot warehouse in California. We buy from Southern, we buy from Young's, we buy from all the big wholesalers. We're buying...we're part of the three-tier system wherever we exist. But if you take the word "any person," which I agree probably isn't the best

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

language, but if you take that out and you put in its place "manufacturer," wine.com is not a manufacturer. We will not be able to legally ship into this state. [LB230]

SENATOR KRIST: Okay. Got it. So the word is what we're here all about right now. I mean, we need to look at what that word "person" says. So if we say in compliance with the three-tier system, if we insert the word either "wholesaler" or "retailer" so that you're not the whole...you're not the producer, you're not the wholesaler, you're not the retailer all in the same time, that's the wording that you're talking about differentiating, still allowing your business to act as a retailer shipping into the state of Nebraska. [LB230]

BILL TOMASZEWSKI: Let me think. I'm hesitant to answer quickly. Pretty much. I mean, like I said, we can tweak the language, but the language would have to include...yeah, any producer, wholesaler, or retailer that is licensed by another state or licensed by the TTB would be allowed to ship into the state. And your question leads me to another thought which I left out which was imported wines. An importer is not going to want to get an S1 license to ship wine just into the state of Nebraska. They're not going to do it. Imported wine basically is being sold from an importer to a wholesaler to a retailer, and then the retailer is selling to the direct consumer via... [LB230]

SENATOR KRIST: And yet...not to interrupt you... [LB230]

BILL TOMASZEWSKI: Yeah. [LB230]

SENATOR KRIST: And yet I have friends that are part of the bottle-of-the-month club and they're getting foreign wine shipped to them through a retail establishment. [LB230]

BILL TOMASZEWSKI: Right. A quick example of wine-of-the-month clubs, real quick. Basically you'll have like [The Wall Street Journal](#), [U.S.A. Today](#), in the background that's a retailer license. That's a retailer who may or may not be shipping into a state legally. And what they do is, the big secret about those wine-of-the-month clubs is a lot of them are private labels and it's really not that good wine. And that's the whole thing, not that we have a commercial about wine.com but we sell real labels bought from real producers, real wholesalers. We go through the three-tier system. If you come to me, I know where my wine is coming from. You're not getting counterfeit wine and no one is going to get sick off of wine shipped by me. [LB230]

SENATOR KRIST: And then just one other comment. It seems like we need to be getting a liquor license to UPS if they're delivering liquor to our homes, so that's another vantage point. [LB230]

BILL TOMASZEWSKI: Some states do. [LB230]

HOBERT RUPE: New Hampshire does. [LB230]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

BILL TOMASZEWSKI: Yeah. Some states... [LB230]

SENATOR KRIST: Bingo. Another revenue source. [LB230]

BILL TOMASZEWSKI: Massachusetts. Massachusetts also regulates shipments of wine. They make UPS and FedEx, in fact, FedEx is the only licensed shipper in Massachusetts, and they have a license from the Massachusetts ABC. [LB230]

SENATOR KRIST: Okay. Thanks. [LB230]

BILL TOMASZEWSKI: So you can do that. [LB230]

SENATOR COASH: Thank you, Senator Krist. Any other questions for Bill? Seeing none, thank you. I'm sure we have your contact information to the committee clerk so if we have some questions we'll give you a call. [LB230]

BILL TOMASZEWSKI: I really thank you so much for this opportunity. I'm willing to help. [LB230]

SENATOR COASH: Thank you, Bill. Are there any other opponents? While you're making your way up, I'm going to read into the record a letter of opposition from the Specialty Wine Retailers Association. (Exhibit 9) Welcome. [LB230]

RANDY JESPERSEN: Hi. I'm Randy Jespersen, R-a-n-d-y J-e-s-p-e-r-s-e-n. I'm representative of Omaha Steaks. I actually represent...I got a chance to...Todd and Bruce Simon, the co-owners of the company. Bruce especially wanted to be here today, but today is...today and tomorrow is our financial review. We review the 2012 year in review and then we meet with all of our employees and do our bonus distribution. We're doing I think we have roughly 1,500 employees here in the state, so they are running all over between here, between Omaha and Snyder meeting with all of our employees and going over the business and how things went and the goals for 2013. So they do regret not being here because they do express a lot of concern for this bill. From a simple standpoint from our basis since we've gotten into partnership with wine.com, it has been a very...we've had some very robust sales. It certainly means more sales to Omaha Steaks and it certainly means obviously job generation for us as a company and Nebraska as well. This has been, since we've started this partnership, it's been an excellent complement to what we do in selling our product and our steaks and the various lines of food that we sell. We're very excited about going forward and seeing the growth. We've only just been in the last quarter of 2012 with our partnership, but so far it's been looking very good. So we certainly see a lot of business potential with this partnership, a lot of growth potential, and as I mentioned before a lot of job generation which is obviously important, too, for us. So from that standpoint we think this is a great

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

business venture for Omaha Steaks and its employees. So any questions? [LB230]

SENATOR COASH: Okay. Thank you, Randy. Any questions? I don't see any. Thanks for coming. [LB230]

RANDY JESPERSEN: All right. Thank you very much. [LB230]

SENATOR COASH: Is anyone else here in testimony of opposition to LB230? Seeing none, is anyone here to testify in a neutral capacity? Welcome back, Mr. Otto. [LB230]

JIM OTTO: Thank you, Senator Coash, members of the committee. I am back up here although wearing a different hat. I am here to testify in a neutral capacity on LB230 on behalf of the Nebraska Farm Wineries and Grape Growers Association for which I am also a registered lobbyist. Basically the association agrees with the intent and the concern over Amazon and all of that that has been raised. We were just concerned somewhat about maybe some confusion in the language, maybe it needs to be tweaked. You've heard some reasons for that. We do appreciate the initial inclusion of trying to help out farm wineries, but the confusion made it easier to take it out. So long story short is we agree with the intent. We're concerned about the, maybe the clarity and details of the language, and as a result we're here in a neutral capacity. [LB230]

SENATOR COASH: Thank you, Jim. Does the amendment that Senator Karpisek brought help with your issue? [LB230]

JIM OTTO: Yes, it does help, probably doesn't...yes, it does help our issue. [LB230]

SENATOR COASH: Does that move you to support or are you still staying in the neutral category? [LB230]

JIM OTTO: We're still in a neutral position. [LB230]

SENATOR COASH: All right. Thank you. Any questions for Mr. Otto? Seeing none, thank you. [LB230]

JIM OTTO: Thank you. [LB230]

SENATOR COASH: Is there any other testimony in neutral capacity? Seeing none, Senator Karpisek, do you want to close? [LB230]

SENATOR KARPISEK: (Exhibit 3) Thank you, Senator Coash and committee. Some of this does get a little bit more complicated than you think it should. And I appreciate everyone who did come testify whether in favor or opposition because I think as we've said, we're trying to keep the three-tier system as much intact as we can. I think that the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

Liquor Control Commission does a very good job of trying to make sure that things all work there the way they should. I can see some issues here to...that we really want to watch and who can ship and how they can ship in. As Hobie said, this was on their radar and I think it's a good time to bring it in and take a good look at it. And if nothing else, we have taken a good look at it and maybe through this we can sit down and talk a little bit more. The amendment again, as Mr. Otto said gives them...makes them feel a little better. That amendment was for them to make them feel good. So (laughter) in my opinion they should leave it in, but that's my opinion. What do I know? So other than that I think just have to...I always have to try to be funny of course. Omaha Steaks would do Nebraska a bigger favor by using all Nebraska wines, (laughter) but... [LB230]

SENATOR MURANTE: Always throw a hand grenade right at the end. [LB230]

SENATOR KARPISEK: Well, hey, marketing. I'm marketing. What the heck. We're marketing Nebraska, right? [LB230]

_____: We could do that. We can do that. [LB230]

SENATOR KARPISEK: Yeah. There we go. You can talk to someone on this side of the room I'm sure (laughter) to get that set up. [LB230]

SENATOR COASH: All right. Thank... [LB230]

SENATOR KARPISEK: I'm always bringing people together. Thank you. (Laughter) [LB230]

SENATOR COASH: Always a "uniter." Thank you, Senator Karpisek. With that, we're going to move on to the next bill which is yours as well. It's LB259. [LB230]

SENATOR KARPISEK: Thank you, Senator Coash. It's good to be the Chair and get to schedule your bills first. But yours was first. Okay. LB2...again, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. LB259 would eliminate the licensing requirement by removing keno writers from the definition of lottery worker. Section 9-615.01 defines a lottery worker as, "any person who performs work directly related to the conduct of a lottery, including, but not limited to, ticket writing, winning number selection, winning number verification, prize payment to winners, recordkeeping, shift checkout and review of keno writer banks, and security." Section 9-631.01 requires that lottery workers be licensed and spells out the licensure procedures. Therefore under current law, a keno writer is a lottery worker and must be licensed. LB259 would eliminate that requirement. The reason behind this bill is the C-store worker who sells lottery tickets or even scratch offs or any of that does not have to be licensed, does not have to go through the background checks and all those things, however, if you're writing keno tickets you do. That's the whole gist of it in a nutshell.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

And if there's any questions, I'd try to answer them. [LB259]

SENATOR COASH: Senator Karpisek, you started into this but I wonder if you could get more specific. When a keno writer has to get licensed, you mentioned background checks, so presumably that means there's some criteria with regard to criminal history or something of that nature that says you meet the requirements and we'll let you get licensed or you've...what's your understanding of those background checks? And then the other question is, what other...what are the other licensing requirements other than a background check? [LB259]

SENATOR KARPISEK: And we have someone here from Big Red Keno who can probably help me out a little bit more. But I don't know how in-depth those background checks are. And to go along with it, as I understand they have keno college where you go to learn how to do everything. I've never been. I probably should go but then I might win if I played keno, so. I think that we better let Mr. Harvey give us the... [LB259]

SENATOR COASH: All right. We'll defer to him. Any other questions for Senator Karpisek? Seeing none, we'll start with the proponents of LB259. [LB259]

GEORGE PAYNE: I'm not Big Red but I will... [LB259]

SENATOR KARPISEK: That's all right. [LB259]

GEORGE PAYNE: (Exhibit 4) That's okay, Senator Karpisek. I'm going to speak to the point and if I can't answer it, maybe he can. My name is George Payne, G-e-o-r-g-e P-a-y-n-e. I'm representing several keno operators from the state. We're in support of LB259, by the way. The responsibility of running a legal game and protecting the public falls to the keno operators and the businesses. The operators have posted performance bonds. The employers have done background checks themselves on most of their employees if they're selling liquor. So we feel that licensing of keno writers is a redundant situation. It is a difficult task to keep track of all the writers since there is a high rate of turnover in the industry. The paperwork becomes a real burden to the employer, the operator, the public entity, and the state. Also, there is an expense to the state for background checks, paper, mailing, employee man-hours, and arbitration proceedings. These could all be eliminated. Since keno writers...I mean since keno managers and ball draw operators are not included in this law, we feel there is enough sufficient checks and balances in place to maintain the integrity of the game. It is not necessary to license keno writers. Any questions? [LB259]

SENATOR COASH: Thank you, Mr. Payne. Senator Bloomfield. [LB259]

GEORGE PAYNE: Yes, sir. [LB259]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

SENATOR BLOOMFIELD: Thank you, Vice Chair. If we don't have the very limited, as I read it, licensing requirements that are in place, how do we keep the undesirable people out of writing those tickets? [LB259]

GEORGE PAYNE: The business owners, when they hire people to sell liquor and those types of things, they usually have their own background checks and those types of things done. So I think that's going to cover that situation. [LB259]

SENATOR BLOOMFIELD: I guess I don't share that confidence. Thank you. [LB259]

SENATOR COASH: Thank you, Senator Bloomfield. Any other questions for Mr. Payne? Senator Johnson. [LB259]

SENATOR JOHNSON: Pretty naive, I've never played keno (laugh). What else does a writer do? Is it pretty well outlined here or... [LB259]

GEORGE PAYNE: Well, a writer, what the writers do is they take the...they put the numbers into the machine and they take the money. And then when the game is over, they will scan the tickets and determine whether there's a winner or a loser. That's what keno writers do. Now they are...Senator, excuse me, I'll continue a little bit more... [LB259]

SENATOR JOHNSON: Yeah. [LB259]

GEORGE PAYNE: ...they are, they go through, when someone is hired to write keno, they go through an explanation of what the rules are. We go through everything with them as far as the age limits, what they can do, what they can't do, and those kinds of things. And that's the responsibility of the business owner and the keno operator. So every outlet that we have as keno operators, we have rules and regulations which we put in effect that we cover with anybody that's going to write keno. I think, one thing I'd like to bring up before I quit if that's all right. The paperwork and keeping track of all these writers becomes just unbelievable. We'll see stacks, I have stacks of files this high with writers. We don't know whether they're still there at those places of employment or not because they move around so much. And unless we would be checking them on a regular basis ourselves, find out who works, who's still working there, are they gone, are they working somewhere else, these types of things makes it more difficult. Our communities, our people in the communities, we have to fax them a copy of the license and they have to keep track of it in their files too. So for the communities, the counties, the cities, they have a numerous amount of paperwork also that we really feel is not necessary. Thank you. [LB259]

SENATOR COASH: Mr. Payne, I did ask this of Senator Karpisek, but I'll ask you or if Bill wants to follow, I'm still unclear, when a keno writer applies for a license, what are

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

the requirements of that license? [LB259]

GEORGE PAYNE: When they... [LB259]

SENATOR COASH: If it's a back...if a background check, you're looking at criminal history. [LB259]

GEORGE PAYNE: Right. [LB259]

SENATOR COASH: So there must be some standard or some bar that you have to meet or don't meet whether or not you're issued a license or not. [LB259]

GEORGE PAYNE: Well, when you fill out a keno writer application, it's the same thing. You give them your Social Security number, all those kinds of things. The state does run a background check. It costs us...I'm not sure of this but I think it's \$15. [LB259]

SENATOR COASH: Okay. [LB259]

GEORGE PAYNE: Okay. They run a background check. Also, there's a question in there that states, have you ever had a felony or anything like this. Well, if they answer yes and they disclose it, there's no problem. You know, they go through, they...it's been disclosed and it's okay because everybody is aware of what's gone on. I've had some people that forgot about, oh, they had a DWI or something and then they were not allowed to write keno. It used to be that you could arbitrate that. So then you'd go to arbitration. Then you have to have a council or you have to have a whole meeting and all this type of thing, and what happened is that's an expense, and basically a lot of times it was simply not remembering from seven or eight, ten years ago some little mistake they made and they didn't disclose it. So I...we feel that most of the time your employers are going to know, hey, is this a good person or this is a bad person, you know, and they're going to do background checks on them. There's no use for double-checking. [LB259]

SENATOR COASH: So that's the only requirement that you're aware of is just the background check. [LB259]

GEORGE PAYNE: Yeah. [LB259]

SENATOR COASH: Okay. And what you're saying is they can put, the applicant can put any conviction on there... [LB259]

GEORGE PAYNE: Yes. [LB259]

SENATOR COASH: ...and in your experience that person, as long as they disclosed it,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

will still be granted a license. [LB259]

GEORGE PAYNE: Yes. [LB259]

SENATOR COASH: And it costs \$15 and that's a license processing fee. [LB259]

GEORGE PAYNE: Right. [LB259]

SENATOR COASH: Does the employer typically pay that or do you ask the keno writer? [LB259]

GEORGE PAYNE: No, no, the state pays it. Oh, are you talking about... [LB259]

SENATOR COASH: I'm talking about when you send in the application and you got to send in your \$15 if that's the cost... [LB259]

GEORGE PAYNE: No. [LB259]

SENATOR COASH: ...does the employer pay that or is it... [LB259]

GEORGE PAYNE: No, no, no, the state pays that. See, when the applicant...what happens, Senator, an employee comes to work or they're already there and we put keno in. They fill out a keno writer application. All right. I fax that application, I get it from the business owner, I fax that writer application into the Charitable Gaming Commission. I fax a copy to the county or city. I keep a copy. I then take the original and mail that to the state. The state from then on handles the entire process. They do the background checks, they check over the form to make sure that it's filled out correctly, and if there is a question on there and when they do the background check, there's a, oh, he did this, you know, then they disqualify that writer. If it's acknowledged on that form, then I've seen some situations where people have had problems with the law and everything else but they were allowed to write keno because they had disclosed it and the employer was satisfied with that. [LB259]

SENATOR COASH: Okay. You mentioned a \$15 fee. [LB259]

GEORGE PAYNE: Yes. [LB259]

SENATOR COASH: Who pays that \$15 fee? [LB259]

GEORGE PAYNE: The Charitable Gaming Commission or from the State Revenue Department. It comes from the state. The state pays it. [LB259]

SENATOR COASH: To themselves? [LB259]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

GEORGE PAYNE: The what, sir? [LB259]

SENATOR COASH: To themselves? [LB259]

GEORGE PAYNE: No, whoever they...wherever they send it in for the background check. [LB259]

SENATOR COASH: Okay. All right. So there's no cost to the employer... [LB259]

GEORGE PAYNE: No. [LB259]

SENATOR COASH: ...or the keno writer doesn't have to... [LB259]

GEORGE PAYNE: No, no, no, no. [LB259]

SENATOR COASH: Okay. All right. So it goes from the Charitable Gaming to the license division. [LB259]

GEORGE PAYNE: Yeah. [LB259]

SENATOR COASH: Okay. And the only requirement, I mean the only thing they're looking for, to your knowledge, is the criminal background. [LB259]

GEORGE PAYNE: Disclosing... [LB259]

SENATOR COASH: There's no disclosure of good moral character or anything like that? [LB259]

GEORGE PAYNE: No, no. [LB259]

SENATOR COASH: Okay. All right. Thank you. Senator Bloomfield, do you have a question? [LB259]

SENATOR BLOOMFIELD: Thank you. Yes. Once you receive that license, it's a two-year license is my understanding, does that stay with the writer or does it stay with the establishment? If I were to have a writer's establishment or a writer's license at Big Red and I went to another keno operation, is that license still good? [LB259]

GEORGE PAYNE: I don't think there's an actual license that comes out, Senator, for that writer. No, there's no license that comes out for the writer. The outlet itself, the establishment, for example, Lake Ridge Golf Course for example, they have a outlet location license. That license is there and they pay for that and we pay for that. The

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

keno writer themselves have no licenses. It's just a form that's on file. You go to the Charitable Gaming Commission and they can list all the people that are writers for the state of Nebraska. [LB259]

SENATOR BLOOMFIELD: That license has to be renewed every two years though. [LB259]

GEORGE PAYNE: That's for the outlet, sir. [LB259]

SENATOR BLOOMFIELD: Oh, I believe it's also for the writer. [LB259]

GEORGE PAYNE: Well, we'd have... [LB259]

SENATOR BLOOMFIELD: We need to look into that (inaudible). [LB259]

GEORGE PAYNE: We would have to check into that, sir. [LB259]

SENATOR BLOOMFIELD: I believe it's also for the writer. [LB259]

GEORGE PAYNE: I'm not sure on that. [LB259]

SENATOR COASH: All right. Thank you, Mr. Payne. And no additional questions. We'll take the...thank you very much, we'll take the next proponent. [LB259]

GEORGE PAYNE: Thank you very much. [LB259]

SENATOR COASH: Welcome, Mr. Harvey. [LB259]

BILL HARVEY: Thank you. My name is Bill Harvey, general counsel for Big Red Keno, and I'll give you a sheet in a second. I didn't plan on testifying today but I thought I'd answer a couple of those questions. And thank you to Mr. Payne for his testimony. [LB259]

SENATOR COASH: Would you spell your name before you start...? [LB259]

BILL HARVEY: Yes. Bill, B-i-l-l H-a-r-v-e-y, Harvey. And I was trying to think, that last question you had was about the renewals of the licenses. And that's correct, licenses are renewed every two years. So this is an ongoing process where there's a two-year license renewal, more paper, you know, gets exchanged, goes back to the city, goes back to the state. I guess, you know... [LB259]

SENATOR COASH: On that question, Bill. [LB259]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

BILL HARVEY: Yeah. [LB259]

SENATOR COASH: Is that license, I think Senator Bloomfield was asking, is it transferable? So if I, you know, am working at Big Red and I get a license but I move to a different community where Big Red is not the operator, do I take that license with me or do I have to get a new license? [LB259]

BILL HARVEY: You'd have to fill out a new...what they...they call it a Schedule III application. So if you went to a new city, you would have to fill out a new Schedule III application for that new city. Let's say you were working as a bartender in Omaha and you had a license to fill out keno tickets there. If you move to Lincoln, you'd have to fill out a new Schedule III application for Lincoln. Now it goes to the same department, so if you've been approved for your Schedule III at Omaha you're probably going to be approved in Lincoln. It shouldn't be an issue. But you...it's still more paperwork, more paper changes hands. I guess the point of this bill is, what's the point of all this paper? If you're putting the impetus on the business owner and the bar owner and the lottery operator, you've kind of got two levels of protection already for the cities as to what happens with these tickets. The viewpoint is that requiring this additional layer where you license every one of these writers out at a bar, basically these folks are bartenders. There's a large amount of turnover. And if you look at the state records right now, there's over 6,000 people that hold these licenses that somewhere along the lines a bunch of paperwork had to take place to send in a license app, do a background check, maybe go through a hearing if something, you know, came back on the background check. It gets to be a lot of, a lot of rigmarole, and the question is what are you really preventing here for somebody to basically work in a bar and sell a keno ticket. All the people...we wouldn't change the licensing requirements for anybody who's actually running the game, you know, putting the balls in the ball blower and checking all those things. It's just those people writing the keno tickets that we would...you know, out in the bars that we would say no longer would have to be licensed with this bill. [LB259]

SENATOR COASH: Okay. Because this bill to be clear, and Senator or Mr. Payne mentioned the ball operators would still have to remain licensed, right? [LB259]

BILL HARVEY: They still remain licensed and absolutely should remain licensed and absolutely should do...guys like me, you definitely want to be doing a background check. I'm a lawyer, so you (laugh) definitely want to be doing a background check on me. But the bartenders out in the field, and all they're doing is selling keno tickets to the patrons of the bar, the question is why all this paperwork. Why do they need to be licensed? [LB259]

SENATOR COASH: In your experience, Mr. Harvey, is any...have you ever seen a keno writer have their license revoked? [LB259]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

BILL HARVEY: Yeah, absolutely. It happens all the time that...a license not so much is revoked, although that does happen from time to time, but it's more a denial. So if somebody fills out their license app and they don't put down that they wrote a bad check to somebody four years ago, okay, and they got a conviction for that, they're going to be denied their keno license because they forgot to put that down on their application. And then they have to, you know, sit out a period before they can work. Well, you know, if you're a bartender...if you're running a bar, you can't afford to have that person there to just serve drinks. You'd need them to be able to sell keno tickets, too, and do anything that you need done in your bar. It's a small business. So consequently you're going to have to let that person go. They're going to have to go, you know, get a job someplace else and you're not going to see them again. Especially in small towns, it's hard enough to find people, you know, to do these jobs. It really makes it tough on those small businesses. [LB259]

SENATOR COASH: Well, you're talking about the denial of the initial licenses, usually because of a failure to disclose a conviction. [LB259]

BILL HARVEY: Normally that's it. And it's also recent convictions. If you look at the statute, what the statute says is that the department has the power to deny these, any license to anybody if they've had a felony within the last ten years, felony conviction, or if they've had a conviction of fraud theft in gaming, felony or misdemeanor, at any time in the past going back as...you know, so technically if you wrote a bad check 27 years ago and you had a conviction for that as a misdemeanor, you can never write keno tickets per the, you know, per the bare language of the state statute. If you're Charlie Manson and you murdered all those people all those years ago, you could get a keno license because that was more than ten years ago. But what the department does is they try to apply some reason to this, you know, and we have no complaint with how the department has tried to use this law. I mean, they basically have tried to apply some fairness. But then you get to situations where if you don't follow the exact language of the statute, sometimes you're letting some people have licenses and not others. You know, the department tries to avoid those types of situations but sometimes they become inevitable unless you're following the exact language of the statute. You know, they'll try to use their leeway to make it a little more reasonable. But in our view, the most reasonable thing to do is eliminate this for keno writers and you would eliminate 97 percent of those issues. [LB259]

SENATOR COASH: Thank you. Senator Bloomfield. [LB259]

SENATOR BLOOMFIELD: Two questions. Number one, you say if you forget that you wrote a bad check four years ago. Are you maybe being a little generous in that you forgot it and not that you're just avoiding mentioning it? [LB259]

BILL HARVEY: Yeah, and I, you know, when somebody doesn't write it down, obviously

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

the intention the department ascribes to them is that they didn't write it down on purpose obviously. And, you know, if I'm on their side, I'm going to say they forgot to write it. So you get into that situation. But, you know, my question is if you're a bartender in a bar and all we're asking you to do is sell a keno ticket, how's it relevant either way? You know, is it really a relevant question whether you wrote a bad check four years ago? [LB259]

SENATOR BLOOMFIELD: And second question would be, who actually has the direct contact with the customer, the writer or the guy putting the balls in the machine? [LB259]

BILL HARVEY: It's actually the writer that would have that direct contact. [LB259]

SENATOR BLOOMFIELD: Thank you. [LB259]

SENATOR COASH: Senator Schilz. [LB259]

SENATOR SCHILZ: Thank you, Senator Coash. Thanks for coming in today, Mr. Harvey. I guess as we're talking about this, it seems to me the reason for a license is to make sure that people aren't being defrauded or taken away from that. How many times have you seen where the keno writer has basically stole money or done things to do that? I mean I suppose it happens. [LB259]

BILL HARVEY: We have had those cases, absolutely. [LB259]

SENATOR SCHILZ: Right. [LB259]

BILL HARVEY: And of course every one... [LB259]

SENATOR SCHILZ: What's the prevalence of it? [LB259]

BILL HARVEY: ...every one of those folks had a...was licensed. [LB259]

SENATOR SCHILZ: Right. Sure. Well, and the question then is what is the prevalence of that? I mean... [LB259]

BILL HARVEY: It's pretty small. I mean, it does happen from time to time. You now, I think by and large the operators in the state are pretty good operators. They're all licensed by the Nebraska Department of Revenue and they really try to police those things and keep an eye on what their writers are doing out there, as do the bars, because ultimately if there's a problem with that writer, it's going to fall back first to the bar for the financial responsibility of that and ultimately if that bar fails, to that lottery operator. And all the lottery operators, you know, have bonds, letters of credit in place

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

with their cities to protect them financially. So the responsibility is still there. It's just where do you put it? You know, where do you...kind of where do you stop micromanaging this? [LB259]

SENATOR SCHILZ: Who gets to run their business and who doesn't. [LB259]

BILL HARVEY: Exactly. [LB259]

SENATOR SCHILZ: Yeah. How much money can a keno writer, I mean, I suppose there's certain amounts of money that if somebody wins that or whatever, then somebody has to come in and verify that. [LB259]

BILL HARVEY: Exactly, exactly. And that limit per state law right now is \$500. [LB259]

SENATOR SCHILZ: Five hundred bucks? [LB259]

BILL HARVEY: Yeah. [LB259]

SENATOR SCHILZ: Okay. Thank you. Not a very big amount. Okay. Appreciate it. [LB259]

SENATOR COASH: Thank you, Senator Schilz. I don't see any questions. Mr. Harvey, thanks for testifying. [LB259]

BILL HARVEY: Thank you. [LB259]

SENATOR COASH: Are there any other testifiers in support of LB259? Seeing none, I'll read into the record a letter of support from the Nebraska Licensed Beverage Association. (Exhibit 11) And we will move on to opponents of LB259. Welcome, Pat. [LB259]

PAT LOONTJER: Hi. Senators, I'm Pat Loontjer, P-a-t L-o-o-n-t-j-e-r, pronounced "Lunjer", and I'm the executive director of Gambling with the Good Life, the group that has fought expanded gambling for the past 18 years successfully. We're here to testify against this recommended law because the law was put in for a reason, obviously, to have an oversight in the gambling operations. And what it's asking is to take that oversight away from the state now and put it back onto the operators and trust that they will check their employees out and to make sure that they're people of integrity and can deal with the public regarding the funds and the gambling revenue. So we would be opposed to this bill. [LB259]

SENATOR COASH: All right. Thank you, Pat. Any questions for Pat? [LB259]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

PAT LOONTJER: I might mention that back in 2011, there was another keno bill that seemed to be innocuous and it was to allow electronic dispensing of the tickets instead of having to use the carriers or the takers, whatever they call them. And we did not oppose that bill at that time, and it passed and so it's gone into effect. And now what we're finding is that we've gotten reports in the western part of the state that there's actually advertisements out there where the keno operators are claiming that they are now casinos, that they now have machines that look like slot machines. And it's a form of advertisement to just suck in the gambler and to give them that experience and of course that would increase addiction. So I think we have to be real cautious that some of these things that look like it's not going to cause any harm and it's just going to eliminate paperwork and save some trees, it really is more than that. And it's kind of like the camel's nose under the tent. And so I think, you know, you should study it seriously and see if this is a responsibility that we need to take away from the state. It's obviously worked. Maybe it is causing a little more work on the part of the operator, but it is filtering out perhaps some employees that should not be there and should not be handling the gambling funds. [LB259]

SENATOR COASH: Well, thank you, Pat. Those are pretty heavy accusations. I think if you got some evidence of that, you better turn that over to the Department of Revenue. I mean... [LB259]

PAT LOONTJER: Well, it was just...it was a circular. It was an advertisement and I didn't think that we needed to do that. But it was kind of a play on words and just pushing the envelope a little. [LB259]

SENATOR COASH: Okay. Thank you, Pat. Wait, Pat. We have a question for you. Senator Johnson. [LB259]

SENATOR JOHNSON: Yeah, thank you, Senator, and thank you, Pat. If a writer discloses and has done something wrong that is not...can still write and as long as they disclose, so how is that going to...what are we learning from that? The fact they're honest enough to disclose it, I'm not sure how that bridges across to, I guess, helping out your cause of not expanding gambling. [LB259]

PAT LOONTJER: Well, because I don't see this as an expanded gambling. I just see this as a weakening of what...the laws that are in existence now. There had to be a reason why this was put in when the keno bill was written that the state would have some authority over the management of the employees that are conducting this game. So I think we need to look at it carefully and say, why would we take it out if it's worked all these years and we're giving that responsibility back to the operators. [LB259]

SENATOR JOHNSON: Okay. [LB259]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

SENATOR COASH: Thank you, Senator Johnson. I don't see any other questions. Thanks, Pat. Is there any other testimony in opposition of LB259? Is there any neutral testimony? Seeing none, Senator Karpisek, you want to close? [LB259]

SENATOR KARPISEK: Thank you, Senator Coash and members. Again, I think I've heard--we've heard--that it's kind of a double-check, and I think it falls back to the owner of the business. I think if we're concerned about anyone who handles money, number one, I hear presumption that they're crooks because it's keno. I think every Super Saver cashier better have their record looked at because certainly couldn't they pocket some money from someone? These people take the money, run the ticket, the game happens, they get the ticket back, they run it and it tells them how much to pay. I couldn't even tell you how they can get around that, but I suppose if you're smart enough and around it long enough you can figure that out. I haven't been able to think of how you could cheat the system. And as I said, those were all licensed people. I don't know, I guess if we're worried about people who are not the right kind of people dealing with your customers, I don't know as a business owner why you would want that and I think then that's...we're getting into where we shouldn't be. I think it's just duplicity that we don't need. I think they are already looked at. Again and like I said, if you're working at a C-store and you put the numbers in for the lottery, Powerball, you don't need this. So, anyway, as far as the accusation, and again, Senator Coash, I agree. I want to see something that says that there's ads out there. There's not even any of those machines that have been approved yet, so please let's not go down this road at the beginning of this year again. I don't think we can come in here and accuse anyone of doing anything without proof. If we're going to use camel's noses under the tent, I think there's a monster in every...behind every door also. So it's a scare tactic. Please don't let that influence your decision. Thank you. [LB259]

SENATOR COASH: Thank you, Senator Karpisek. And we're going to move to the last bill on our agenda, LB273. [LB259]

SENATOR KARPISEK: Thank you, Senator Coash, members of the General Affairs Commission (sic). For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. I am the state senator for the 32nd Legislative District. LB273 would reduce the time between games of keno from five minutes to three minutes. Section 9-607(1)(c)(ii) and (b) regulates keno games that states: the random selection of numbers by the computer, other electronic selection device, or electronically operated blower machine shall not occur within five minutes of the completion of the previous selection of random numbers. LB273 reduces the time from five minutes to three minutes. I've had this bill in before. There is nothing to say when you play a game of keno how much...how little you can bet on it. You have to do a dollar, but you could do a hundred games at a penny a piece. This is not trying to get people to play more, to lose more. I know what they're going to say. We've heard it. It's just a way to try to get more games to be played. Again, if you want to come in and drop down a dollar on 999 games at a time and leave,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

you can. So that's all it does is go from five minutes to three to play and that's it. [LB273]

SENATOR COASH: Okay. Thank you, Senator Karpisek. Senator Krist, you have a question. [LB273]

SENATOR KRIST: I'm not going to ask anybody any questions when they come up here because I've heard all these arguments the last four years. It's all expanded gambling and it's also a focus of many organizations to make sure that we don't expand gambling. But for the record, I'm going to share a conversation that you and I had last year. If we're really trying to limit expanded gambling, then the people who come talk to us about limiting expanded gambling need to make an appointment and go in and sit and talk to Doug Ewald. Because the Constitution in Nebraska allowed for gambling to start at a particular time. When it passed, there was a Powerball and a lottery. You look at the number of games across this state that the Department of Revenue has allowed to happen and then you're going to come tell me that going from five to three is expanded gambling? The priorities are misplaced. My personal opinion is the same opinion I had last year. I support your effort going from five to three. It's up to the individual technological limitations of the machine and of the people who are running the games whether or not they can even go to three, and in some cases around the state that may not be possible. So thanks for bringing it back again. And those that would criticize that we've already decided on this can save that argument as well. As many times as you need to bring it up in a discussion that you think is appropriate, I'll be here to listen to it. Thank you, Senator Karpisek. [LB273]

SENATOR KARPISEK: Thank you. And, again, we all have different definitions of expanded. This is not my definition of expanded. It's no secret that I would be in favor of expanded gambling. (Laughter) And if I thought that this was going to blow the door wide open, I wouldn't horse around with two minutes. We will have some other bills that will do that in this committee. (Laughter) [LB273]

SENATOR COASH: Thank you, Senator Karpisek. Senator Lautenbaugh. [LB273]

SENATOR LAUTENBAUGH: I do understand your argument and, yes, I'm new to the committee but I have heard the discussion over this before. And I just appreciate everyone's willingness to hear a bill again and again and again (laughter) in case I ever find myself in that chair. So thank you. [LB273]

SENATOR COASH: Thank you, Senator Lautenbaugh. Any other questions for Senator Karpisek? Senator Johnson. [LB273]

SENATOR JOHNSON: Well, there might be people that come in yet, again, as I said before, I've never played keno. I don't know if you can physically play a game every...I mean, can they turn...the system turn out a game every minute or is it...is two minutes

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

the lock in or three minutes to lock in or are there some machines out there that can only go over five? I don't know. [LB273]

SENATOR KARPISEK: We'll have people that know better than I... [LB273]

SENATOR JOHNSON: Okay. I'm... [LB273]

SENATOR KARPISEK: ...but right now it's five. Can they do it every three seconds? No. Can they do it faster than five? I would assume so technically, not legally. [LB273]

SENATOR JOHNSON: Yeah. And that's just the freshman question. [LB273]

SENATOR COASH: Thank you, Senator Johnson. Any other questions? Seeing none, okay, we're going to start with proponents of LB273. [LB273]

GEORGE PAYNE: Me again. [LB273]

SENATOR COASH: All right. Welcome back, Mr. Payne. [LB273]

GEORGE PAYNE: I'm not an attorney so I don't speak quite as good as he does. (Laugh) [LB273]

SENATOR COASH: That's a compliment in (laughter) this committee. [LB273]

GEORGE PAYNE: (Exhibit 5) Senator Coash and members of the General Affairs Committee, my name is George Payne, G-e-o-r-g-e P-a-y-n-e. I represent keno operators in the state of Nebraska--not everybody, those that we meet occasionally. Originally, five minutes between keno games was established to prevent what some people would call instant keno. As we have found, five minutes is a pretty long time. I always have people just stop and just don't say a word for about a minute. It takes a little...you notice it takes a little (laugh) bit of time, so. We believe that three minutes would be a very good way to satisfy the initial concerns of the originators of this game but allow the players to enjoy the game more. The shorter time between games will allow more games to be played and, therefore, could--could--generate more money for cities, towns, and counties. I say could because our projections show approximately 35 percent more games could be played on a daily basis, but that doesn't say that every player is going to want to play every game every three minutes. There are 162 communities with keno and 723 businesses licensed to write the game. Before I was involved with keno, I saw some wonderful benefits from keno funds. My wife was a library director for the city of Papillion for 31 years. She built...was instrumental in building the new library there. They received over a million dollars worth of funds to build that library. The number of kids, parents, and adults that use that facility on a daily basis is phenomenal. So I see the benefits from the keno funds. In conclusion, we feel

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

that lowering the time limit will be a positive move for our...for increasing revenue to our communities with none of the adverse effects commonly stated by those against gambling. Thank you. I'll take any questions. [LB273]

SENATOR COASH: Thank you, Mr. Payne. Pretty straightforward bill. No questions. [LB273]

GEORGE PAYNE: Thank you. [LB273]

SENATOR COASH: Next proponent. [LB273]

JACK CHELOHA: Good afternoon, Senator Coash and members of the General Affairs Committee. My name is Jack Cheloha, the first name is J-a-c-k, the last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha and I want to testify in favor of LB273 and thank Senator Karpisek for introducing this legislation. We were supportive of the efforts to lower the time a couple of years ago when this same committee heard the bill. We still support lowering the time here in 2013. In the city of Omaha, we raise roughly about \$5.4 million in proceeds off of the keno game in our community. That's roughly...if we...out of our total budget including debt service, etcetera, which is about \$545 million a year, it's roughly 1 percent of our revenues, which isn't a very significant number. But because the money statutorily is required to go to community betterment, we feel that we get a lot of good use out of the proceeds. We use that money for buying police cruisers. We've used it for park renovations. We've helped pay some of the mortgage on a building downtown called the TD Ameritrade Center or TD Ameritrade Field which we use to host the College World Series. We've done other things relative to other community-type treatment as we've tried to, you know, help people that may have drug or alcohol addictions by supporting some of the community services with keno money. So there's a number of ways that we've utilized it for community betterment and we'd be supportive of lowering the time frame. I'll try to answer any questions. [LB273]

SENATOR COASH: Thank you, Jack. Any questions? I don't see any. Thanks again. [LB273]

JACK CHELOHA: Thank you. [LB273]

SENATOR COASH: Next proponent. Welcome, Gary. [LB273]

GARY KRUMLAND: Senator Coash, members of the committee, my name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, appearing on behalf of the League of Nebraska Municipalities in support of LB273. There are 530 cities and villages across the state and over 25 percent of them have keno, which means that their citizens have voted to implement keno because it requires a vote of the people. So it is widely spread across

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

the state both from the larger city down to some very small communities. It does raise some revenue and, as you heard, it's for community betterment. It's for thing...most cities and villages understand it's not revenue that you count on year after year like tax money. So they can use it for things like improving parks, police cars, swimming pools, things like that, special projects. So it's a very helpful source of revenue. We support LB273 because cities think that this could make the game just a little more fun to play, a little more attractive, and maintain the revenue end for the cities. With that, I'd be happy to answer any questions. [LB273]

SENATOR COASH: Thank you, Gary. Any questions? Seeing none, we'll go to the next proponent. I don't see any other proponents. We'll move to opposition testimony. We'll take the first one. Oh, and while Pat's...come on up, Pat, while Pat's coming up, we'll read into the record a letter of support for LB273 from the Nebraska Licensed Beverage Association. (Exhibit 12) Welcome back, Pat. [LB273]

PAT LOONTJER: (Exhibits 6 and 7) Thank you. I'm Pat Loontjer, spelled L-o-o-n-t-j-e-r, director of Gambling with the Good Life, 18 years and counting. Thought it was going to be a three-month commitment. Don't think so. I think I'm going to be here forever and you're stuck with me. (Laughter) And I appreciate what Mr. Karpisek said that, you know, we kind of say the same thing, same thing, you know, it's expanded gambling, it's speed, it's all this, you know. And you're going to hear it. Well, you wouldn't have to hear it if you didn't keep bringing it back. Every year he comes back with the same thing and then we've got to come back and say the truth and tell you that any time you increase the speed of any form of gambling you're going to increase addiction. It's just a given. And the voters have spoken. They've spoken three times. It's been on the ballot as far as expanded gambling in the state in a general form and they've overwhelmingly said enough is enough, what we have is enough. Keno has been at five minutes. To take it down to three minutes is a 60 percent increase in the number of games that can be played. It'll go from 12 games per hour to a possibility of 20. So we're talking speed and we're talking addiction. And any time you've got addiction, you've got community problems. And all the wonderful things that...keno is from what I understand the only form of gambling that does give back to the community, so it is visible. It is visible in police cars. And my son is a police officer. I'm sure he appreciates that. But where does that money come from? It doesn't fall out of the sky. It is coming from our fellow citizens who have lost their money playing keno or whatever other form of gambling they're involved in. It's a tax on the poor. It's a regressive tax. There's a new book out called Addiction by Design and it's written by an MIT professor. And that book has all of the statistics to show that speed equals addiction. It's, you know...and there's been...this is an attempt by the keno operators to line their own pockets because the keno operators receive almost twice the profits that are given back to the city. And the cities are the ones that bear the burden for all the social costs, not the keno operators. And the Department of Revenue in 2011 showed that keno revenue was already up by 5 percent, and I have the article here to show you that. And there was a quote in there by

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

Senator Schumacher says, "We've seen it steadily increasing for the last several years," said Paul Schumacher, president of Lotto Nebraska which serves primarily small towns. So their revenues are going up and that's apparently not enough for them. Now they want to increase the speed so it will go up even farther. There's only so much discretionary money to be spent by Nebraska families. Any money that's lost to keno will not be money that's going to be spent for necessities. It's not going to be money that's spent on Main Street and local businesses. And the biggest losers are going to be small businesses and families. This is a bad bill for many reasons. In 2009, there was an AP story that I'll give you a copy of that shows that the average gambling debt for Nebraska gambling addicts is \$27,000. You know, these are all costs that fall back on the community. Whenever a person becomes addicted and they resort to embezzlement, we go through divorce, we've got crime committed, we've got...this is an addictive product. Gambling is an addictive product, and the faster you make it, the faster you're going to cause addiction. And all of that falls back onto the state and onto the taxpayers. Let's see. Surely this committee would not want to promote any of the hardships that I've mentioned. State-sponsored gambling is not an ethical way to raise revenue. It hurts the poorest and it hurts the most vulnerable. The responsibility of the state is to protect and preserve the good life of the state of Nebraska. This bill will do neither. In fact, it would do the opposite. It may benefit a few, but it will be costing the many. And we would urge you to vote no. [LB273]

SENATOR COASH: Okay. Thank you, Pat. Any questions for Pat? Senator Johnson. [LB273]

SENATOR JOHNSON: On the one handout that you had here, average gambling debt in Nebraska is \$27,000. Is that data that's collected that the actual gambling debt is \$27,000 or those people that are having indebtedness of \$27,000 and part of it is gambling? Do you know? [LB273]

PAT LOONTJER: From what I understand from the story, and that's in 2009... [LB273]

SENATOR JOHNSON: Yeah, I saw that. [LB273]

PAT LOONTJER: ...so we don't have anything more recent. It was done by the Associated Press, and I believe that was taking from the people that had already contacted gambling addicted programs. You know, these were the ones that had gone forward to seek help, and that was just an average of \$27,000. [LB273]

SENATOR JOHNSON: So those that are...that's an average of those that have admitted they have an addiction. [LB273]

PAT LOONTJER: Yes. [LB273]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

SENATOR JOHNSON: That's not an average of all people that gamble once a month or.... [LB273]

PAT LOONTJER: No, no, no, no. [LB273]

SENATOR JOHNSON: Okay. [LB273]

PAT LOONTJER: No, this is the problem, and that's what we're addressing, the problem. We're not talking about the people that go in and lose \$5 or \$10. It's a small percentage and...but it is small but it's devastating because statistically nationwide for every one problem gambler there's 17 other individuals that are affected by that--their family, their friends, their coworkers, their employers. And the nationwide statistics show that for every \$1 a state or a community gains in gambling revenue, it costs them \$3 minimum in social costs. So, you know, gambling was always considered a vice. You know, it just got the name gaming a few years ago, but it was considered a vice along with drug addiction and alcoholism and all that. Why would we want to promote something that we know, even if it is a small percentage of our population, is going to be hurt? Why would we want to take that chance and for what reason? For a little bit of money that's, you know, that's going to go back to the community? Because that's what it is really, a small percentage. But at what cost? [LB273]

SENATOR COASH: Thank you, Pat. Thank you, Senator Johnson. Any other questions? Seeing, we'll let you go. [LB273]

PAT LOONTJER: Thank you. [LB273]

SENATOR COASH: Any other opponents? Welcome, Al. [LB273]

AL RISKOWSKI: (Exhibit 8) Yes, Al Riskowski, it's R-i-s-k-o-w-s-k-i, Nebraska Family Council. I'm executive director and here representing them. Appreciate Senator Karpisek. Sometimes we've talked about whether things are expanded gambling or not and appreciate the recognition that there are different definitions of expanded gambling. And we see this as a type of expanded gambling when you're trying to create more revenue from this type of an activity. Just some thoughts for the committee and some studies on the back, the relationship of alcohol and gambling, because a number of casinos or, excuse me, keno operations are taking place in bars. And so I think that's appropriate to look at that effect. But a few thoughts. (1) When keno was enacted, the Section 9-607, why was it put at five minutes? Thinking again that there was a good reason that it was put slow and not done quickly. I think that needs to be considered, what the effect of that has on individuals. (2) If the primary goal of this legislation is to increase General Fund revenue, and it seems from some of the testimony that is true, as well as funds to charities, then what is the possibility of amending the percentages distributed from keno games that cities and the state receive, what percentage they

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

receive as well as charities from the existing games that are taking place? Another thought is in regard to the fact that, again, it's by definition. But I see keno as a type of tax. You're trying to gain revenue from the population of the state of Nebraska to fund General Fund here in our state as well as other charities. And even our Governor has proposed looking at the income tax, is it fair the way we are taxing the people in the state of Nebraska. Are faster keno games a good way to raise revenue here in our state, a fair way? As we have seen from many, many studies, it's harmful to families and to individuals. And certainly gambling is an unfair way for the state to tax the people. That's certainly our consideration. I'm asking the General Affairs Committee, your committee, to look at a number of other questions or perhaps even a study. Will the current keno players be the primary ones losing additional money? In other words, if you lower it from five minutes to three minutes, are you really going to attract many new players or in fact will it be the ones that are already playing only losing more money? Another question, how many new players will actually be attracted to that shorter time? I guess I already said...stated that, but since...another one, since most keno machines are placed in bars, how does the use of alcohol affect the number of games played by an individual, just as last year we lengthened the time that bars are allowed to stay open? And I think it becomes even a greater question, are more keno games played later into the evening? Does alcohol really affect the number of games you play? It certainly affects individuals' judgment as they are playing these type of games. We're not looking at the kind of excessive losses you would see in a casino, but it's still the type of losses to a family who is on the edge can be of significant impact upon them. So I just would like the committee to consider these many questions. It seems very simple to lower the time from five minutes to three minutes, but I believe there can be an impact and consequences that perhaps haven't been considered, and would just really appreciate your consideration. I agree with Senator Karpisek that this is not like we're asking for a casino to come into the state. It's not of that type of level. But for families who have very limited income, any monies you take out of their pocket, so to speak, does affect them, and it can affect their children, can affect their families. And I think we must be careful in any move we make in creating and collecting more revenue by this means. So thank you for your time. [LB273]

SENATOR COASH: Thank you, Al. Senator Lautenbaugh. [LB273]

SENATOR LAUTENBAUGH: Thank you. Thank you, Mr. Riskowski. Just briefly put, I was paying attention when you were talking about your definition of expanded gambling to meaning it increases the revenue. Do you understand that by that definition that a successful advertising campaign would be expanded gambling? [LB273]

AL RISKOWSKI: Well, there are many things that are happening, I understand, in the state, Senator, and gambling by its very nature is constantly attempting to expand. Our hope is that...we know we're not going to stop every way that gambling is going to expand, but we're hoping that we can limit that and that's been our attempt. [LB273]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

SENATOR LAUTENBAUGH: Well, perhaps you didn't understand my question. [LB273]

AL RISKOWSKI: Oh, okay. [LB273]

SENATOR LAUTENBAUGH: What I'm getting at is if you're saying anything that increases revenue is expanded gambling, then I assume a successful ad campaign for keno on TV would be expanded gambling in your mind if it actually increased revenue by bringing more people in. [LB273]

AL RISKOWSKI: I guess potentially. From Nebraska Family Council's point of view our attempt is to no longer...is to by state statute try and collect more revenue by changing statute, not necessarily by taking...people taking advantage of what already exists. [LB273]

SENATOR LAUTENBAUGH: Are you comfortable, is your organization comfortable, with the advertising the lottery seems to do or is that, too, another form of expanded gambling in your estimation? [LB273]

AL RISKOWSKI: Well, again, Nebraska Family Council has not testified to try and push back what already exists. [LB273]

SENATOR LAUTENBAUGH: I understand that but I think we're quibbling over what actually exists. I mean, keno exists, does it not? [LB273]

AL RISKOWSKI: Well, yes. [LB273]

SENATOR LAUTENBAUGH: But you oppose the change from five to three because that would be an expansion. [LB273]

AL RISKOWSKI: Well, I think we're trying to create an exact definition that probably is not, unless you and I sit down in your office, is going to be easier to do rather than a public setting of this nature. But in essence, Nebraska Family Council has, for at least the last 12 years that I've been there, we have testified on pieces of legislation that are trying to increase revenue, not necessarily...I don't think it's ever been within our ability to stop the advertising or some of this. [LB273]

SENATOR LAUTENBAUGH: Well, I think we surely could. I mean, we regulate cigarette advertising and alcohol advertising. [LB273]

AL RISKOWSKI: Might be a good idea to introduce something. [LB273]

SENATOR LAUTENBAUGH: Okay. We can talk about that. Thank you. [LB273]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

SENATOR COASH: Thank you, Senator Lautenbaugh. Senator Murante. [LB273]

SENATOR MURANTE: I want to ask Senator Lautenbaugh's question in a slightly different way. [LB273]

AL RISKOWSKI: Okay. [LB273]

SENATOR MURANTE: Earlier this year I cosponsored legislation which would end all taxes on retirement income in Nebraska. Presumably that's going to result in...well, it will result in more disposable income for certain Nebraskans. Some Nebraskans are going to use that money for keno. So is my...that is going to increase the revenue of what is being spent on keno. So when I cosponsored that tax cut, did I support legislation that expanded gambling? [LB273]

AL RISKOWSKI: Well, that's certainly a different scenario than trying to directly affect statute in regard to gambling here in the state. It's not our ability to control what people do with their money, neither have we made an attempt to try and do that publicly. [LB273]

SENATOR MURANTE: Okay. Thank you. [LB273]

SENATOR COASH: Thank you, Senator Murante. Any other questions for Al? Seeing none, we'll let you get out of here. [LB273]

AL RISKOWSKI: All right. Thank you. [LB273]

SENATOR COASH: We'll take the next testifier in opposition. Seeing none, is there any testimony in a neutral capacity? Senator Karpisek. [LB273]

SENATOR KARPISEK: Thank you, again, Senator Coash and members of the committee. I do not think that this is an expansion of gambling. I think if we want to argue that there has been an expansion of gambling, it's that now you pay \$2 for a Powerball ticket. Did not come through here. I think that a \$20 scratch-off ticket that you can get at any C-store may be an expansion of gambling, which also did not come through here. From five minutes to three minutes, to me it's the same game. In many places it's probably not going to go any faster or it might not even go faster I'm sure not all the time, but in some places where there's a lot of people it probably could go faster and maybe not. Maybe you'd have people there buying tickets and you couldn't get the game going that fast. Who knows. I was a little surprised. Usually the argument against gambling bills is that revenues are going down as far as horse racing, so why are we going to help them out? Now revenues are going up in this and now that's a bad thing. So I don't know which way it is, but it doesn't surprise me. But if they are going up, I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

would say the people are voting with their wallets. I have not been out on a campaign with the State Patrol with a gun to anyone's head to go play keno or without the State Patrol (laughter). If they want to go play keno, if they want to go gamble, they will and they can, and most of them go to a surrounding state. We heard \$27,000, the average debt. How much of that is legal gambling I wonder. How much of it is football betting that's illegal? How much of it is all sorts of things that is illegal right now? I don't know. Pat also said this is just a little bit of money. Is it worth it for this little bit of money? Well, if it's a little bit of money, I don't...what's the argument? People for all sorts of reasons blow their money and, yes, it could be drugs, it could be alcohol, it could be, I don't know, a shoe fetish. But (laughter) we cannot...and that's not me (laughter)--I know I saw you thinking--but we cannot control everyone, we cannot nanny them, we cannot do all these things for them or to them. I would say that this is not a tax either. If anything the keno I think is maybe opposite because they can buy...they buy police cars and fire trucks. You're right. This money doesn't fall out of the sky, but where does the money come from to buy that stuff if it isn't for keno money? Taxes. We're all looking at a tax policy shift right now and I know that that will be a tough decision for all of us, but is that a regressive tax also? I'm sure we'll hear that. So there's all sorts of different things that we can do. I appreciate the Gambling with the Good Life and Mr. Riskowski are against gambling, and that's fine. And if you are, too, that's fine. But please let's talk about it, let's tell the truth, let's say what it is and not just try to make things up. It's just not true. There are people out there that, believe it or not, think differently than we all do. So I do appreciate your indulgence and I forget the freshman senators or new senators on the committee, I forget that you haven't been through this as many times as I have and we didn't really talk about what keno does and what it is and those sort of things. Maybe we'll have to have another field trip for that. But we can always do that. So I appreciate everyone coming in, and if you have any other questions I'd try to answer them. [LB273]

SENATOR COASH: Senator Lautenbaugh. [LB273]

SENATOR LAUTENBAUGH: Thank you, and thank you, Senator Karpisek, for bringing this. And I'll full disclosure, I don't like keno. It's not interesting to me. I think it distracts good bartenders from more important obligations (laughter). It's just...it's not a good thing. But I was interested in what you said though. Is there a principled way to distinguish this increase in games which make an increase in take presumably if people elect to play them from selling more lottery tickets, selling more different tickets, selling more pickle cards, increasing the price of lottery tickets. Isn't the end result all the same? [LB273]

SENATOR KARPISEK: I think it is. And, again, it's up to people how...it doesn't mean you have to play every game. It doesn't mean you have to bet more than a dollar on every game and you don't even have to bet a whole dollar on every game. You just have to turn in a ticket that adds up to a dollar. Now I realize that not a lot of people

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
January 28, 2013

probably play a penny a game. But when I've been on, I don't see people that play it for more than maybe a dollar a game. So, yes, the end result is we want more money to come in. My thought is rather than the same people playing more times is more people coming in and doing it because they often feel that it's boring, it goes too slow, we have to wait around for five minutes, which I don't see the big...you know, there's something else to do. But it would bring in a little more cash and hopefully more people. So hopefully there would be enough people that they could get another bartender for you, Senator Lautenbaugh (laughter). [LB273]

SENATOR LAUTENBAUGH: Thank you, Senator. [LB273]

SENATOR COASH: Any final questions for the Chair? I leave it to you. Thank you. That will be done for the hearings today. [LB273]