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General Affairs Committee
February 25, 2013

[LB230 LB244 LR34CA]

The Committee on General Affairs met at 1:30 p.m. on Monday, February 25, 2013, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB230, LB244, LR34CA, and gubernatorial appointments. 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 COASH: Okay, well, welcome to the General Affairs Committee. I'm Senator Colby Coash of Lincoln, and I'm Vice Chair of the Committee. Senator Karpisek, our Chair, is introducing a bill in another committee, so he will join us when that is done. But he was here to get us started. We're going to...I'm just going to do some quick introductions: Senator Johnson over here from Wahoo.

SENATOR JOHNSON: Um-hum.

SENATOR COASH: Senator Schilz will be joining us from...

JOSHUA EICKMEIER: Ogallala.

SENATOR JOHNSON: Ogallala.

SENATOR COASH: ...Ogallala. I always say eastern Wyoming. (Laughter) Senator Krist from Omaha; Senator Murante from Omaha on my far right.

SENATOR MURANTE: Incorrect, Senator Coash.

SENATOR COASH: Senator Murante from Gretna.

SENATOR MURANTE: Gretna is not Omaha. (Laugh)

SENATOR COASH: It's all the same, but...(laughter)

SENATOR MURANTE: They've aggravated Senator Schilz and myself already in these introductions.

SENATOR COASH: Pardon me. Senator Murante from Gretna--let the record reflect that's corrected. Senator Bloomfield from Hoskins. Senator Lautenbaugh from Omaha will be joining us. This is Josh Eickmeier. He's our legal counsel. And over here is Christina Case who is our committee clerk. And we've got Cicely and Colton, our pages, will be helping us out. So let me take this opportunity to welcome you to the committee, ask you to silence your cell phones. We're going to do...we have six appointments to do

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first, and we're going to start with those. And then, after that, we're going to move into one hearing on an amendment and then two...a bill and a constitutional amendment. That will be the order that we'll go. After each bill or appointment we'll ask for proponents, opponents, and neutral, in that order. And if you're planning on testifying, we ask that you fill out a sheet at the back of the room and give it to Christina and sign in before you testify. If you have any handouts, make sure you give that...give enough copies for all of us. Ten should be enough. And we'll ask that all testifiers state and spell their name for the transcribers. And I think that will be it. So we're going to start with the confirmation hearings. Our first one is for Kathy LeBaron, who is not with us. But she is here via telephone. So, Kathy, can you hear us? [CONFIRMATION]

KATHY LeBARON: Yes, I can hear fine. [CONFIRMATION]

SENATOR COASH: Okay, you are on. We'll pretend that you're sitting here. But we're going to start with you. You are a new appointment to the Nebraska Arts Council, and I'll let you...I'll give the mike to you, if you want to introduce yourself to the committee members and tell us anything that you think we ought to know. [CONFIRMATION]

KATHY LeBARON: (Exhibit 1) My name is Kathryn LeBaron. I reside in Lincoln. I'm a community volunteer and I'm also an events planner for a company, Lincoln Industries. My interest and my husband, Marc's, interest in the arts are very wide. We collect contemporary art. We sit on a number of arts-related boards. I was former president of the Sheldon Art Association. We are very active in Sheldon. We support Lux, other arts organizations, of course, Lincoln...visual and other arts organizations. Like I mentioned, we do like to travel and go to visit artists. (Inaudible) we...are a member of an international artist organization, the International Sculpture Center, which puts us into...you know, meeting and interacting with artists of various cultures, ethnic groups. We, together with another couple, own an art studio in Puerto Vallarta, Mexico, where we invite artists to come and do their work for three or four weeks at a time. Again, it's an international, ethnically diverse organization. In addition, I feel like we're very good community supporters of various organizations in Lincoln, Nebraska, and throughout the United States. We have two daughters who also live in Lincoln. I'm on a number of other boards. I'm on the University of Nebraska Foundation Board, chair of the development committee. As I mentioned, I finished the term of Sheldon Art Association. I've raised money for Child Advocacy Center, March of Dimes, just a number of various organizations. [CONFIRMATION]

SENATOR COASH: Okay, thank you very much, Kathy. We really appreciate your willingness to serve. Let me see if there are any questions from the committee members on your appointment. Kathy, I don't see any. We really appreciate you taking time to call in and give us some background on yourself so we can make a decision on your appointment. [CONFIRMATION]

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KATHY LeBARON: Okay. [CONFIRMATION]

SENATOR COASH: I don't have any other questions, so we'll let you go.
[CONFIRMATION]

JOSHUA EICKMEIER: Proponents. [CONFIRMATION]

KATHY LeBARON: All right. [CONFIRMATION]

JOSHUA EICKMEIER: Hold on. [CONFIRMATION]

KATHY LeBARON: Thank you very much. [CONFIRMATION]

SENATOR COASH: Kathy, can you hang on one second? We're going to see if anybody wants to testify, and then we'll... [CONFIRMATION]

KATHY LeBARON: Okay. [CONFIRMATION]

SENATOR COASH: ...before we let you go. [CONFIRMATION]

KATHY LeBARON: All right. [CONFIRMATION]

SENATOR COASH: So we're going to take any testimony as a proponent on Ms. LeBaron's appointment. Is there any testimony in opposition? Any neutral testimony? I don't see any, so I guess nobody wanted to chime in on your appointment, Kathy. So we'll let you go at this point, and we'll be in touch. Thanks again. [CONFIRMATION]

KATHY LeBARON: Thank you for your time. [CONFIRMATION]

SENATOR COASH: Take care. [CONFIRMATION]

KATHY LeBARON: Goodbye. [CONFIRMATION]

SENATOR COASH: Okay, so that's the only one we have. [CONFIRMATION]

JOSHUA EICKMEIER: Yes, the rest are here. [CONFIRMATION]

SENATOR COASH: The rest are here, right? Thank you. Thanks, Chuck. I appreciate it. We're going to move on to the next appointment, which is Helen Feller, to the State Racing Commission, which is a reappointment. Helen, come on up. Helen, you are up for reappointment to the State Racing Commission, so maybe... [CONFIRMATION]

HELEN ABBOTT FELLER: (Exhibit 2) Right. Vice Chair and members of the committee,

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my name is Helen Abbott Feller, H-e-l-e-n A-b-b-o-t-t F-e-l-l-e-r. This the third appointment I've been on the Racing Commission. I have...was pretty much raised in the racing industry. My dad was a rancher in western Nebraska and we...he raised horses all my life. And so we were at Ak-Sar-Ben when I grew up, and I continued with the managing of the stud farm and sold it and have now just racing partners and things like that. I have three kids and they're all grown now. My oldest just got married in Mexico a week ago, and my youngest is in the ag college in Lincoln, and that's here at Lincoln. And that's who I am. [CONFIRMATION]

SENATOR COASH: All right, and this is...you said this is your third appointment? [CONFIRMATION]

HELEN ABBOTT FELLER: Third appointment, yes. [CONFIRMATION]

SENATOR COASH: And you're back for more. [CONFIRMATION]

HELEN ABBOTT FELLER: Back for more. (Laugh) [CONFIRMATION]

SENATOR COASH: Very good. Thank you, Ms. Feller. We'll see if we have any questions from the committee. Senator Johnson. [CONFIRMATION]

SENATOR JOHNSON: I guess, as part of the Racing Commission, what impact does the commission have on the vitality and maintaining and developing the racing industry in Nebraska? [CONFIRMATION]

HELEN ABBOTT FELLER: Well, it's pretty much our job to promote racing and to encourage that sport in the state of Nebraska. But we basically oversee the laws and enforce the rules on the participants. [CONFIRMATION]

SENATOR JOHNSON: So you're more regulatory, from the law standpoint, versus promotion. [CONFIRMATION]

HELEN ABBOTT FELLER: Yes, more regulatory. It actually...it used to be where we could not participate. But we actually put a bill in a couple years ago, and we expanded the commission and made it able for us to participate with horse ownership, which was good, because it got people involved that knew what was going on in the industry. So that was a good thing. The bad thing is our racing isn't looking very healthy, and it doesn't...we need a lot more. The situation is antiquated. I mean, it's really hard for racing. We used to have the whole dollar, and now we have to share that dollar. And so people like instant gratification, so we have lost a lot of people to Iowa, to the casinos, and things like that. So we've lost our punch. [CONFIRMATION]

SENATOR JOHNSON: Okay, thank you. [CONFIRMATION]

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SENATOR COASH: Thank you, Senator Johnson. Any other questions for Ms. Feller? I don't see any. Thanks for coming down and giving us...and for being willing to serve again. [CONFIRMATION]

HELEN ABBOTT FELLER: Yes, thank you. [CONFIRMATION]

SENATOR COASH: Thank you very much. Senator Schilz has joined us. Senator Schilz is from eastern...no, Ogallala. Sorry. (Laugh) I said that earlier and nobody thought it was funny but me. (Laughter) We'll now move on to the... [CONFIRMATION]

JOSHUA EICKMEIER: Should you ask if anyone else wants to... [CONFIRMATION]

SENATOR COASH: Oh, sorry. Thank you. Are there...is anybody here to testify in support of Ms. Feller's reappointment? Is anybody here to testify in opposition? Any neutral testifiers? Seeing none, we'll close the hearing on Ms. Feller's appointment and move on to the hearing for Mr. John Hiller, reappointment to the State Electrical Board. Welcome, Mr. Hiller. [CONFIRMATION]

JOHN HILLER: (Exhibit 3) Thank you. My name is John Hiller, J-o-h-n H-i-l-l-e-r. This is a reappointment. I've served one term on the State Electrical Board. I am a second-generation of managing Hiller Company, so I grew up in the industry. I've been a Nebraska state electrical contractor/license holder since 1987. And I think I could go more if you want. I'm married and have three kids, grandkids, and my son is in the business now, too, so. [CONFIRMATION]

SENATOR COASH: All right, thank you, Mr. Hiller. I'll start. Where are we...which code book are we using for this? [CONFIRMATION]

JOHN HILLER: 2011. [CONFIRMATION]

SENATOR COASH: Two thousand eleven, which we updated last... [CONFIRMATION]

JOHN HILLER: I believe it was two years...about a year ago, yes, and... [CONFIRMATION]

SENATOR COASH: About a year ago? [CONFIRMATION]

JOHN HILLER: Yeah. [CONFIRMATION]

SENATOR COASH: When is the new national... [CONFIRMATION]

JOHN HILLER: Two thousand fourteen will be coming out late this year, and it probably

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will be...we'll be discussing that on the Electrical Board, if I'm approved, but to see if that's the direction we'll go. Probably will ask for that to become... [CONFIRMATION]

SENATOR COASH: Okay, so you haven't seen the 2014 just yet? [CONFIRMATION]

JOHN HILLER: We have not seen the 2014. It won't be available to us to look at until, probably, September. There are some, you know, issues that we're aware of that are coming up, but we don't really know the final writing yet, so. [CONFIRMATION]

SENATOR COASH: Okay, all right. How many members on the Electrical Board? [CONFIRMATION]

JOHN HILLER: I'm going to have to go around the room here. One, two, three. I believe there's seven. [CONFIRMATION]

_____: Seven. [CONFIRMATION]

JOHN HILLER: Seven. [CONFIRMATION]

SENATOR COASH: Seven, okay. All right, very good. Thank you, Mr. Hiller. We'll see if we have any questions for you. Seeing none, thanks for coming down. [CONFIRMATION]

JOHN HILLER: Thank you very much. [CONFIRMATION]

SENATOR COASH: We really appreciate your willingness to serve. [CONFIRMATION]

JOHN HILLER: Thank you. [CONFIRMATION]

SENATOR COASH: Appreciate it. Is there anybody here as a proponent on Mr. Hiller's appointment? Is anyone here as an opponent? Sometimes, people get up, and I don't know if they need...anyone here neutral? Seeing none, thank you, Mr. Hiller. Senator Krist has joined us from Omaha. [CONFIRMATION]

SENATOR KRIST: Hello. [CONFIRMATION]

SENATOR COASH: Thank you very much. Okay, we'll move on from...to the next, which is Patrick Drickey, which is a new appointment to the Nebraska Arts Council. Did I say your name right? [CONFIRMATION]

PATRICK DRICKEY: You did. [CONFIRMATION]

SENATOR COASH: Oh, good. Welcome, Mr. Drickey. You are a new appointment, so

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none of us have had a chance...opportunity to meet you. So why don't you start by giving us your name and a little bit about your background. [CONFIRMATION]

PATRICK DRICKEY: (Exhibits 4 and 5) Patrick Drickey, D-r-i-c-k-e-y. I reside in Omaha with my wife, Karen. She's here today too. I'm both excited and flattered to be here today: excited because I've spent my entire career up to this point involved in one way or the other with the creation, marketing, and dissemination of art; and flattered because I've been nominated for this honor, a sacred trust, if you will, to help the citizens of this great state further develop the roles art plays in our daily lives, especially in the education of our youth. I believe in art both as a powerful creative outlet for the artist and as a tool to help each and every one of us better understand ourselves and the world in which we live. I've brought as evidence of this belief my biography from a book I recently published, Green Glory. It's a book dedicated to the venues of the...where the majors in golf have been held and kind of a testament to being able to work within a committee environment, pulling together the governing bodies for approval to publish this book, including the RNA (phonetic) in Scotland, so. I'd also note that beside me is my wife. She has recently retired from OPS, where she was a Buffett Award-winning art teacher at Bryan Senior High School, so. [CONFIRMATION]

SENATOR COASH: Anything else? [CONFIRMATION]

PATRICK DRICKEY: That's... [CONFIRMATION]

SENATOR COASH: All right, we'll see if we have any... [CONFIRMATION]

PATRICK DRICKEY: I guess... [CONFIRMATION]

SENATOR COASH: We'll see if we have any questions for you, Mr. Drickey. [CONFIRMATION]

PATRICK DRICKEY: Okay. [CONFIRMATION]

SENATOR COASH: Senator Krist. [CONFIRMATION]

SENATOR KRIST: I can say I'm pretty envious of the places you've been able to go in taking a photographer...or for your photos. But I guess what I'd like to point out is that every time I...early on in my career here in the Legislature, when I'd say, Bob Krist, they'd say, the photographer? And I'd say, no, I wish though I was. [CONFIRMATION]

PATRICK DRICKEY: I wish. (Laugh) [CONFIRMATION]

SENATOR KRIST: Yeah, absolutely. I've seen some of your work. It's beautiful. So welcome. [CONFIRMATION]

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PATRICK DRICKEY: Thank you, thank you. [CONFIRMATION]

SENATOR COASH: Thank you, Senator Krist. Any other questions for Mr. Drickey? I don't see any. Really appreciate you coming down and introducing yourself to the committee. [CONFIRMATION]

PATRICK DRICKEY: Thank you. [CONFIRMATION]

SENATOR COASH: Okay, at this time we'll take any proponent testimony on Mr. Drickey's appointment. Any opponent testimony? Seeing none, any neutral testimony? All right, seeing none on that as well, we will close the hearing on the appointment of Mr. Drickey and move on to Sherry McClymont, who is also a new appointment to the Nebraska Arts Council. Sherry is here. Welcome. [CONFIRMATION]

SHERRY McCLYMONT: (Exhibit 6) Thank you. I'm Sherry McClymont, S-h-e-r-r-y M-c-C-l-y-m-o-n-t. Excuse me. I'm from Holdrege. And art has always been my passion, and it's what I do for pleasure and for fun. It was the reason I had a graphic design business for many years. I've been on the Holdrege Housing Authority Board for 25 years, and we did...we've done a lot of things in Holdrege, working, finding grants, and working for affordable housing and that sort of thing. I've been on the Nebraska Prairie Museum Board for nine years. During that time, one of the best things that happened is we were able to get a gallery with the art of Thomas Naegele, who was a POW during World War II, and he came and he helped design and create his gallery there. When I was on the Friends of the Lied Board, I was The Lieder editor, and that was a really fun, enjoyable time in my life to meet people and to help promote the Lied. And it was the first time I came to understand that all of the state of Nebraska is underserved, in terms of art. And I was particularly excited by their outreach to the state of Nebraska and the programs and the wonderful benefits that outstate Nebraska was able to experience--and the children--because of that. I have also been on the session--they said I do should this--of our church, and that helps me to understand how to work with lots of different people and try and make things happen, in spite of different feelings. I'm so proud to be nominated to this, and art has always and will always be important in my life. [CONFIRMATION]

SENATOR COASH: All right. Thank you very much, Ms. McClymont. We'll see if we have any questions for you from the committee. Seeing none, we really appreciate your willingness to serve and coming down here and telling us a little bit about yourself. [CONFIRMATION]

SHERRY McCLYMONT: Thank you. [CONFIRMATION]

SENATOR COASH: Thank you very much. Is anyone here to testify in support of Ms.

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McClymont's appointment? Seeing none, anyone here to testify in opposition? Anyone here to testify neutral? Seeing none, we'll close the hearing on Ms. McClymont's appointment and go to the last one, and I'll turn it back over to the boss.
[CONFIRMATION]

SENATOR KARPISEK: Go ahead. [CONFIRMATION]

SENATOR COASH: Or I'll keep going. All right, we'll go to Ms. O'Keefe. Welcome. You are here for reappointment to the Nebraska Arts Council. [CONFIRMATION]

STEPHANIE METZ O'KEEFE: That's correct. [CONFIRMATION]

SENATOR COASH: Well, welcome. [CONFIRMATION]

STEPHANIE METZ O'KEEFE: (Exhibit 7) I'm Stephanie Metz O'Keefe, S-t-e-p-h-a-n-i-e. And O'Keefe is O-'K-e-e-f-e. And I've thoroughly enjoyed my first term with the Nebraska Arts Council and looking forward and honored to be asked to be on a second term. I come to this board from a little different background. I'm in the passenger elevator and escalator business. I'm a taxpayer. And I love all of the things that Mr. Drickey so eloquently described, and I'm...I like to make sure that the money that's generated by our hard-earning, hardworking taxpayers is well stewarded in the Arts Council. I have one daughter, Erin Busch. She's an attorney with the Baird Holm law firm in Omaha. And that's my deal. [CONFIRMATION]

SENATOR COASH: Thank you, Ms. O'Keefe. What would you say has been...this is...you're just completing your first term on the Arts Council? [CONFIRMATION]

STEPHANIE METZ O'KEEFE: Um-hum. [CONFIRMATION]

SENATOR COASH: Can you tell the committee, kind of, what a couple of the initiatives that the Arts Council has taken on during your term, so that we can get kind of an idea of what the Arts Council has been doing? [CONFIRMATION]

STEPHANIE METZ O'KEEFE: Okay, I'd like to go at that from several different angles. First of all, I would like to strongly compliment the management of the Arts Council for their strong management. And they...the organization is very well-managed, and there is so much attention to financial detail and ways to cut dollars and even down to pennies. They are really doing a terrific job with taxpayer money. So a lot of the initiatives they've gone...in the three years I've been there, we've gone from being a papered organization to paperless, again, to save money even on paper. In terms of the panels, when we do our panels, again, we're no longer sent reams of paper with all of the credentials and programs that all of the artists...for example, artists in residence come, and they have to show us what they've done and, of course, it's all on paper. It's

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no longer on paper. It's in the computer, and we've all learned to be a little more technically savvy. But so that's been a terrific initiative that they've done. And then, on the arts side, you have to be worthy to be selected by the Arts Council for funding. Not everyone is. It's not a rubber-stamp operation by any means. Not everyone is selected. So that's what I would say is...are two initiative areas that are very... [CONFIRMATION]

SENATOR COASH: Very good. Thank you for that. Any other questions for Ms. O'Keefe? Senator Bloomfield. [CONFIRMATION]

SENATOR BLOOMFIELD: Thank you, Senator Coash. The question was asked earlier, how many people serve on that committee? And I'm going to ask you the same question, ma'am. [CONFIRMATION]

STEPHANIE METZ O'KEEFE: On the Arts Council committee or on a panel? Just on our committee? [CONFIRMATION]

SENATOR BLOOMFIELD: Yeah. [CONFIRMATION]

STEPHANIE METZ O'KEEFE: I don't know. [CONFIRMATION]

SENATOR BLOOMFIELD: Okay, that's fine, that's fine. [CONFIRMATION]

STEPHANIE METZ O'KEEFE: And there's... [CONFIRMATION]

_____: It depends on the number of grants we have; otherwise, the council is 15 people. [CONFIRMATION]

STEPHANIE METZ O'KEEFE: The council is 15. [CONFIRMATION]

SENATOR BLOOMFIELD: Okay, thank you. [CONFIRMATION]

SENATOR COASH: Thank you, Senator Bloomfield. Any other questions for Ms. O'Keefe? Seeing none. We appreciate your willingness to continue to serve on the council, very much appreciate it. [CONFIRMATION]

STEPHANIE METZ O'KEEFE: Thank you. [CONFIRMATION]

SENATOR COASH: Is anyone here to testify in support of this appointment? Anyone here to testify in opposition of the appointment? Anyone here in a neutral capacity? Seeing none, we'll close the appointment on Ms. O'Keefe. We thank you for your time coming down today. So that will wrap up our committee appointments for today. And so now we are going to move on to a hearing on AM249 to LB230, which is a bill we heard earlier this session, and Senator Karpisek is going to introduce this amendment. We're

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doing this...the amendment is different enough from the original bill that we decided to have another public hearing and get some more input on that. And so we will treat this amendment just like we do a regular bill and, following Senator Karpisek's introduction, we'll take testimony in support and opposition and neutral on that as well. So with that, Senator Karpisek, you are recognized to open on AM249 to LB230. [LB230]

SENATOR KARPISEK: Thank you, Senator Coash and members of the committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. As Senator Coash said, this amendment changes the bill enough that I felt that we should have another hearing on it. Would we have had to? Maybe not, but I think this is the right way to go to make sure that everyone has a chance to come to the table and tell us what they think about it. AM249 represents the changes suggested by out-of-state retailers who were concerned that LB230 was too restrictive. However, since AM249 was filed and notice of hearing was given, my office received additional comments and concerns from, primarily, the wine industry. In an attempt to work with and find compromise, I have offered the following changes which can be found in AM357. AM249 basically incorporates portions of the Virginia law that was suggested at the last hearing by a testifier as an acceptable alternative to LB230. This is what the amendment does: Instead of any person being able to get a direct shipper's license, only manufacturers--Section 1(4)--and retailers--Section 1(5)--could. This change tightens up the language and provides predictability and consistency for the Liquor Control Commission in regulating who has a direct shipper's license. Section 1(7) outlines the application requirements for a direct shipper's license, including the brands of alcoholic liquor that they intend to ship. The notification requirement will only apply to manufacturers: (a) that they will have to agree to file reports and pay taxes; (b) agree to allow commission agents to examine their records; (c) violation may result in a license suspension, cancellation, or revocation; (d) notify the commission of any license violations in other states; and (e) requires that manufacturers notify any Nebraska wholesaler if they intend to ship in the same products. This change would provide the Liquor Control Commission with the information it needs to evaluate the application and regulate the products coming into Nebraska. Section 1(8): An agent must demonstrate that the manufacturer or wholesaler has authorized the agent to ship the product. This section will be removed, as it was deemed unnecessary. Section 1(9) requirements once license is granted: (a) manufacturers can only ship the brands listed on the application; (b) licensed can only ship alcoholic liquor that they own; (c) licensee can only ship alcoholic liquor that is registered with the federal Alcohol and Tobacco Tax and Trade Bureau; (d) licensee cannot ship produces that the manufacturers or local wholesalers have agreed not to carry; (e) licensee cannot ship more than nine liters per month and only for private consumption, not for resale; (f) licensee must use an approved common carrier to ship their products; (i) the common carrier must verify the recipient is at least 21 years old; (ii) the recipient must sign for the alcoholic liquor; (iii) common carrier agrees to submit information to the Liquor Control Commission when requested; the packaging must clearly read, sorry, CONTAINS ALCOHOLIC

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BEVERAGES, SIGNATURE OF PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY; delivery to a minor is a violation and the common carrier is liable. This change places requirements on the licensee regarding what they can ship and how they can ship it. Section 1(9) requires that both Nebraska excise and sales tax be paid on alcoholic liquor shipped into the state. It also requires any political subdivision's sales tax also be paid. Omitting this in the original amendment was an oversight that was caught by the League of Nebraska Municipalities. This change establishes a nexus, allowing the Department of Revenue the ability to track down and collect any delinquent taxes. It is my understanding that all those opposed to the regular bill at the first hearing are now either in support or neutral with these changes. I would urge the committee to move this compromise to General File. Again, we are after the taxes. We all know what we deal with on budget. We're talking about taxes. People shipping into the state would have to make sure that the people are 21 who are getting it, pay their taxes, tell the people here what they're shipping in so we know what's coming in. In my opinion, this just treats everyone the same that's either here or is shipping in under a shipper's license currently. And I'd be glad to try to answer any questions if you have any. [LB230]

SENATOR COASH: Than you, Senator Karpisek. Senator, was there a fiscal note on the original bill? [LB230]

SENATOR KARPISEK: You know, I don't recall. [LB230]

SENATOR KRIST: It's \$1,500. [LB230]

SENATOR COASH: It's right there. There was a \$1,500 estimate, okay. [LB230]

SENATOR KARPISEK: There was, sorry, I knew that. [LB230]

SENATOR COASH: We've got...Do you know what this amendment will do to that fiscal note? [LB230]

SENATOR KARPISEK: I don't, Senator. They will...as I understand it, if we move this bill, then they would provide a new fiscal note. But they won't usually just give you new fiscal notes with every time you amend, which I can understand. [LB230]

SENATOR COASH: Amend it, makes sense. Okay. [LB230]

SENATOR KARPISEK: And from what I understand, that \$1,500 is what they think that we would lose, people who wouldn't ship into the state, because of this. And that's \$500 for each one, so. [LB230]

SENATOR COASH: And that \$500, if three is the guess, tell me where that \$500 goes. [LB230]

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SENATOR KARPISEK: It goes to the Nebraska Wine (sic--Winery) and Grape Growers account where they advertise, promote their industry. And I'm sure someone will be here to tell us more about that. We did that a while back to try to help the Nebraska industry. [LB230]

SENATOR COASH: Do you know--and if you don't, I'm sure, a testifier will--how much...what percentage does that \$1,500...would that \$1,500 represent of their total budget? Are we... [LB230]

SENATOR KARPISEK: I think we have 269 or 289 right now, so I think it's... [LB230]

SENATOR COASH: Two hundred eighty-nine shipping licenses or...? [LB230]

SENATOR KARPISEK: Licenses, right. I think we figured it's about \$140,000 a year, currently, so roughly 1 percent. [LB230]

SENATOR COASH: Okay, thank you, Senator Karpisek. Senator Krist. [LB230]

SENATOR KRIST: I'm going to go to the fiscal note again just to make a point. We did remove the sunset from that reinvestment account. So they are allowed to reinvest and advertise and do that, and we left it alone. It's...I don't remember the exact amount, but I see somebody in the audience who probably will. We did that last year. Point being though: This fiscal note is based upon reduction in shipping. What your amendment seemed to do is allow for legitimate shippers to come in, so that particular portion of revenue should be flip-flopped in some way. [LB230]

SENATOR KARPISEK: We would hope so. [LB230]

SENATOR KRIST: Okay. [LB230]

SENATOR KARPISEK: Again, this is based off the Virginia law. We have tried to see, when they instituted this, what their numbers did at that time. Maybe someone behind me will have that. I did not have any information on that as of when I opened. [LB230]

SENATOR KRIST: Thank you, Chair. [LB230]

SENATOR KARPISEK: Thank you, Senator Krist. [LB230]

SENATOR COASH: Thank you, Senator Krist. Any other questions for Senator Karpisek? Seeing none, we will now move to proponent testimony on this amendment. I guess we'll start with Hobie. Come on up. [LB230]

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HOBIE RUPE: (Exhibit 8) Good afternoon, Senators. Once again, my name is Hobie Rupe. I'm the executive director of the Nebraska Liquor Control Commission. I guess I'll try to go through some of the things and maybe answer some of the questions as they come up. As you're aware from the first hearing, you know, the commission felt it was important to bring this back up to the committee's attention. We were one of the first states to do a direct shipping law. And the more I'm looking back at it, actually, we started doing it in the '90s is when we first started to bring our toe into it. And in a lot of ways, you know, we were trailblazers and, pretty much, had any person, which was--how should I phrase it?--we didn't contemplate the size of the Internet and how much commerce would be done now, here, in 2013. And so what we've done, after the first hearing, is I reached out as well to some of the...and the people who are in opposition said, okay, we need...you agree we need to update our law, and who's got, sort of, one of the state-of-the-art ones? They directed me to Virginia, North Dakota, a couple of other ones, and Virginia was the one we looked at. And it does a couple things where I think is really good, I mean. And any time we look at a bill, I always end up going back to the statutes and going through the statement of policy because that's sort of what guides our actions as a commission. And it comes from the Legislature. And the first out of the four things in the statement of policy is the clear policy of the Legislature to regulate the transportation or importation of alcoholic liquor into the state when such alcoholic liquor is intended for delivery or use within the state. The change is here, by going from any person to limiting it to a wholesaler. And how are they going to prove they're a wholesaler? They're going to have to...or, I'm sorry, manufacturers. They're going to have to give us proof of their TTB documentation. We've been doing that through policy anyway, but this will put it in...codify in statute that, if you're a manufacturer, you need to have a legitimate or an importer...a legitimate TTB, Trade and Tax Bureau, DSP. They're going to have that information, so we're going to know that their license has been vetted by the feds. We are talking about the on-line retailers. They're going to be...you'll have to be a licensee in the state they're domiciled, so they're going to be vetted by that different state. Now different states have different criteria, but they're going to go through the process, they're going to have to get licensee in good standing, so we know that we're actually dealing with bona fide licensees in other parts of the...outside of Nebraska are going to be holding these licenses. The second purpose of the act is to promote adequate economic and efficient service by licensees selling alcoholic liquor within the state of Nebraska without unjust or undue discrimination, preference, or advantage. The excise tax has been paid by, already, who has the S1. But the sales tax are...have generally been the responsibility and the requirement of the final consumer. In other words, if I'm going to order a case of wine, I'm technically responsible for the payment of the sales tax. I'm not going to cast aspersions on anybody, but I'm not sure that the Department of Revenue is getting a lot of that taxes. What this does: It levels the playing field. The same bottle...the same tax that is going to be available for me if I buy a case from on-line or buy a case at the local Hy-Vee. I'm going to be paying the same tax, depending on where I'm domiciled at. And so from our perspective, it levels the playing field, and that's really what the commission

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looks at. I don't think the industries on the wholesale side are 100 percent satisfied with this bill. They think...they generally like it. I'm not sure that the on-line retailers are 100 percent satisfied, but they generally like it, which means that's the sweet spot for me as a regulator. You know, if I've got both of them mostly liking it but not really liking everything about it, that's probably where we should be at. And from our perspective, I look at making sure that it's a level playing field. The sales tax permit or the collection of sales tax will level the playing field. And we have not yet been asked to do a fiscal note, Senator Krist, to your expansion...to your earlier question. I anticipate that we will probably have to work with Department of Revenue to try...because, you have to remember, excise tax, we collect it based on a gallon of wine, 95 cents per gallon. That gallon of wine can be being sold at \$1 a gallon or \$100 a gallon; the excise tax is the same. The sales tax is based upon the value of the wine, so we'll have to work with the Department of Revenue to actually get an idea. So I actually...my thoughts would be that that fiscal note would actually increase because we're going to be collecting taxes that we haven't collected already. The third, sort of, mission of the commission is to generate revenue by imposing an excise tax upon alcoholic liquor. We already do that. We collect that. This is going to make it easier and, also, make sure that bona fide operators have it in other states, that we're actually dealing with people and not just any person. And the fourth is: promote the health, safety, and welfare of the state and encourage temperance in consumption of alcoholic liquor by sound and careful control and consumption of the manufacture, distribution, and sale of alcoholic liquor. I think a big part of that is a permit to the bona fide...they'll be giving it to bona fide deliverers. The requirements that, you know...and let's be honest, those requirements are pretty much the industry standard nationwide. You know, it must be 21. They must be signed for. "It contains alcoholic liquor" must be stamped. That is sort of what is the industry standard. And they're probably already coming in that way because, you know, they're going to ship to where they do. This is going to make it a requirement that they do it so, overall, I think this is a very good...the amendments to the bill. I really want to thank everybody. I was involved, sort of, as the, as I said, the regulator, so I was sort of looking at it...how are we...how is it going to make our job to do our mission more efficiently and more effectively? I believe the amendments and the amendment to the amendment should do that. And I'd be happy to answer any questions. [LB230]

SENATOR COASH: Thank you, Hobie. Senator Krist has a question. [LB230]

SENATOR KRIST: I'm talking about the sales tax as opposed to what would normally be going into the reinvestment trust or account for the wine distributors, right? [LB230]

HOBIE RUPE: Okay, yeah, yeah. Right now, the only thing that goes in...the license fee goes from it, the license fee. The actual tax that comes in goes to the General Fund. [LB230]

SENATOR KRIST: Okay. [LB230]

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HOBIE RUPE: The excise tax we collect on an annual basis, which they pay on...that's the one that's paid in January. They pay that annually, and that goes to the excise tax. It goes right to the state. [LB230]

SENATOR KRIST: So what I would expect to see on it, not to interrupt you, but what I'd expect to see on the next fiscal note would just be a Legislative Fiscal overall, a Department of Revenue fiscal, which would show the additional tax, and the Nebraska Liquor Control Commission separately or...? [LB230]

HOBIE RUPE: You might be. You know, we were sort of trying to guess at how many, you know, and it was really much...you try to hit a moving target. You know, if we were to change it to manufacturer, we would have lost some on-line retailers. It was really hard for us to tell who was purely a retailer, who was a manufacturer because...just by names. What this does: It would let us identify those. But the key thing now is I don't believe this bill, the amendment to the bill, is going to take out anybody who is able to ship today. They'll still be able to ship after this passes. They're just going to be, you know...you know, unless, of course, they're not a retailer in another state or they're not a manufacturer, in which case my thought is, they shouldn't be in the business anyway. So I think, if we have any diminution in the number of S1s, it will be small and, in fact, if you look at the chart I've passed out, over the last couple of years it showed the S1s have actually been increasing. We're up to 293 as of, you know, right now. [LB230]

SENATOR KRIST: Thank you, Hobie. Thank you, Senator. [LB230]

SENATOR COASH: Thank you, Hobie. Any other questions for Hobie? Seeing none, we're going to let you off the hook. [LB230]

HOBIE RUPE: Thank you. [LB230]

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

JUSTIN BRADY: (Exhibit 9) Senator Coash and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska Liquor Wholesalers in support of this compromise amendment that Senator Karpisek has brought forward. We've worked with Senator Karpisek's office, with Hobie, with the individuals who opposed the original bill, with Bill from wine.com, and said, you know, the concepts we were trying to look at--as Senator Karpisek and Hobie both laid out--were a leveling of the playing field, where...that we wanted to make sure people were licensed, as we are; we wanted to make sure that all taxes were collected, as they are if they come through wholesalers; and we want to make sure...do the best we can to make sure minors are not getting access to this alcohol. Back on the licensing just a little bit, I think, when you look at our current law, which says, any

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person, it allows for an operation of a gray area. And as you know with any gray area, you'll find people that can exploit that gray area. And I know others have been polite not to say it. I'll say it. One person that's decided they want to come operate in this gray area is Amazon. They have said, we don't need a license, we will operate under the other people's licenses. And as you all are pretty much aware--they also have made it pretty clear--they have no interest in collecting sales tax for anything in any state, unless it's one of the 11 they happen to have a warehouse in. This bill would say...as I understand it, would make it clear that, if they wanted to operate in Nebraska--it doesn't prohibit them--they can come in, they have to be licensed, and they have to collect the sales tax, just like everybody else that's operating in this line of work. With anything, any compromise, Hobie's right. We didn't get...if I could have sat down with my clients and written the bill, it would have looked differently than this. But understand that there is a market out there. There are Nebraskans that want to have access to these products on-line. We said, okay, how can we balance the licensing, taxing, and protecting minors with allowing on-line sales? And I believe this goes a long ways to nailing that gray area. I'm not going to represent it eliminates it, in my opinion, but I think it goes a long ways to fixing that. Virginia law has been brought up. And there have been some that have said, depending on what side of the aisle, I suppose, you're on, some say it's the best law in the country, others say it's the worst law, depending on if it's helping you or keeping you out. But I can say that when I looked up, Virginia has 892 active, out-of-state shipping licenses today. I would submit that that hardly says Virginia has a tough law for true, legitimate retailers and manufacturers to comply with. If 892 of them have agreed that they can meet the standard in Virginia, I would submit that they could still probably meet the standard in Nebraska. As far as the fiscal note, Senator Krist, at least some numbers that I had gotten, I know that roughly, last year, based on a market survey, about 13,000 cases of wine were shipped into Nebraska at an average price of \$34 a bottle. That equates to about \$5 million worth of gross product coming into this state. Now maybe somebody actually filled out their use tax form and submitted it. If nobody did, you're talking between \$250 (thousand) and \$350,000 in sales tax that should be collected. Now like I said, I can't represent what that number should be, because somebody could have actually filled out a use form and submitted it. So I would hope that, when the new fiscal note comes out, it would reflect numbers similar to that in...and on the minor front, I just...I have a handout here, if I can. It references a study that was done and is in The American Journal of Medicine that came out in May of 2012, and talks about minors can easily avoid age requirements when they buy alcohol on-line. And it was a study that showed that about 40-45 percent of the time they ordered alcohol on-line right now, they were able to obtain that. And so with this compromise amendment, I think, we at least take a step forward to say, how can we keep this out of the hands of minors? So with that, I'd try to answer any questions. [LB230]

SENATOR COASH: Thank you, Mr. Brady. I don't see any questions. Thanks for working on this. [LB230]

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JUSTIN BRADY: Thank you. [LB230]

SENATOR COASH: Take the next proponent. Welcome, Joe. [LB230]

JOE KOHOUT: Vice Chairman Coash, members of the General Affairs Committee, Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing today on behalf of the Associated Beverage Distributors of Nebraska. We, too, appear in support of the compromise amendment and AM249, as amended by AM357. You know, when we testified before this committee, the beer wholesalers' concern was primarily that of taxation and an equal playing field. And we realize that this amendment still solves that major concern that we had under that original bill. And we certainly want to extend our appreciation not only to those other groups but, frankly, to those two groups who appeared in opposition. They were not an intended target, in our opinion, of the original legislation. And they were direct, they were honest, and we dealt with them. And now we're sitting here, and we're all going to sit before this committee and express our support for this. So I think it's how the process is expected to work, and I think it worked in this case. So with that, I can't say anything any better than Mr. Brady said. So with that, I'll end my comments and try to answer any questions. [LB230]

SENATOR COASH: Thank you, Mr. Kohout. Senator Krist has a question. [LB230]

SENATOR KRIST: One word: kumbaya. (Laugh) [LB230]

JOE KOHOUT: Um-hum. (Laugh) [LB230]

SENATOR COASH: A statement, I guess, Senator Krist has. Seeing no other questions, we'll take the next proponent. [LB230]

TIM KEIGHER: Good afternoon, Vice Chairman Coash and members of the committee. My name is Tim Keigher. It is K-e-i-g-h-e-r. I appear before you today in support of LB...or AM249 to LB230 on behalf of the Nebraska Petroleum Marketers and Convenience Stores Association. And I can't say anything better than Mr. Brady and Mr. Kohout, so I'll just say, ditto. [LB230]

SENATOR BLOOMFIELD: Kumbaya. [LB230]

SENATOR COASH: Okay. [LB230]

TIM KEIGHER: No, seriously, from a retailer's perspective, I guess, what Mr. Brady and Mr. Kohout have said is that we like the fact that these out-of-state retailers will be licensed, they will be paying the sales tax and excise tax, as do my retailers that are in the state of Nebraska, and also to be verifying age when they make these sales, as we

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are required to do as well. So with that, that's all the comments I have. [LB230]

SENATOR COASH: (Exhibits 18 and 19) All right. Thank you, Mr. Keigher. Any questions for Tim before we let him go? Guess not. Thanks for coming. Well, we'll take the next proponent. While you're coming on up, I'm going to read into the record a few letters that we received, one from Tom Wark from the Specialty Wine Retailers Association. It's our understanding that his concerns have been addressed by the second amendment that Senator Karpisek brought. That's been submitted to the committee and will become part of the record. In addition, we have a letter from Charles McGrigg of the Wine Institute, and I will say this is in opposition. So we'll leave it at that. Welcome back. [LB230]

WILLIAM TOMASZEWSKI: Good afternoon. William Tomaszewski. That's T-o-m-a-s-z-e-w-s-k-i. I am the general counsel of wine.com, and today I represent the interests of wine.com and Omaha Steaks. I have one comment. I've been in this state twice, and I have yet to see the sun. (Laughter) Hopefully, if I ever come back, you can prove to me there is sun in this state. First off, I want to thank Hobie and his commission for really going out and reaching out to the industry and bringing everyone together on the table and trying to find out and trying to get everyone's best interest involved. And I really...the state of Nebraska is very, very lucky you have him in the position that he is in. He did a tremendous job, and I really want to commend him for what he did. I appreciate everyone coming to the table and compromising. Usually, most times, when I meet with wholesalers the old saying is with wholesalers is that the only good direct shipper is a bankrupt one. Fortunately for me, the wholesalers in this state did not say that and they work with us. This is a great bill. I've worked under the Virginia rules for many years now, and I've been able to ship into Virginia with no problem collecting sales tax, giving my brands out, and having no problems with them at all. I think it is a good compromise law. It's workable and, as an Internet retailer with locations in several states, I've been able to navigate the Virginia system very easily and with no problem. Sales tax: great idea. Giving nexus to out-of-state retailers with this law, I think, is a great thing. Last year, wine.com, in the calendar year 2012, to give you some financial information, we sold a little over \$320,000 worth of wine. I don't know, off the top of my head, what the sales tax rate is in Nebraska. Say it's 7-8 percent. You can extrapolate that and see how much more money. I think this is a positive move for the state of New Hampshire. (Laughter) I mean Nebraska. I'm sorry. Where am I? (Laughter) [LB230]

_____ : Where are you today? [LB230]

SENATOR KRIST: No sunshine, that's where. [LB230]

SENATOR JOHNSON: (Inaudible) to see the sun. [LB230]

WILLIAM TOMASZEWSKI: It's just...I think it's a good move. I think your finances will be

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in good shape with this nexus. Controlling the common carriers: I think that is a great idea. New Hampshire, Virginia, other states do it. They give out a bulk fleet license to the carriers. They go through their manifest lists every month. I know New Hampshire does a tremendous job with this. And they compare the direct shipper's list to the carrier's list, and they compare them to see where they match up and where they don't match up. And I know the state of New Hampshire has gone out and fined UPS and FedEx several times for shipping wine illegally into the state. So I think that is a great, great move where you can really...where your commission can control what comes into the state very easily. And with that, if you have any questions for me, I'm glad to be here, happy to answer any questions. [LB230]

SENATOR COASH: Thank you very much. Welcome back. Senator Krist, do you have a question? [LB230]

SENATOR KRIST: Just a note. We have...we average about 333 days of sunshine a year, so come back in one of the 333. (Laughter) [LB230]

SENATOR SCHILZ: Maybe it's him. [LB230]

SENATOR KRIST: Yeah, maybe it's you. (Laughter) [LB230]

WILLIAM TOMASZEWSKI: Hey, it might be me bringing the cloud wherever I go. [LB230]

SENATOR COASH: Thank you very much. Senator Bloomfield has a question. [LB230]

SENATOR BLOOMFIELD: My question was much along the same line. Where were you last year? (Laughter) And we would invite you to come back in May, June, July, August, and September. (Laughter) [LB230]

WILLIAM TOMASZEWSKI: I would love to be here. Schedule a hearing, I'll be here. (Laughter) [LB230]

SENATOR BLOOMFIELD: You're welcome without a hearing, sir. [LB230]

SENATOR COASH: All right, thank you very much. Any other questions? Seeing none, thanks for coming back. [LB230]

WILLIAM TOMASZEWSKI: You're welcome. [LB230]

SENATOR COASH: We'll take the next testifier in support of AM249. Seeing no other testifiers in support, we'll now move to the opposition testimony. Is there anyone here to testify in opposition of this amendment? Seeing none, do we have anybody to testify in

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a neutral capacity? Welcome, Otto. [LB230]

JIM OTTO: Thank you, Senator Coash. Members of the committee, my name is Jim Otto, O-t-t-o. I am a registered lobbyist for the Nebraska Winery and Grape Growers Association, and I'm here today on behalf of that association to testify in a neutral capacity on the amendment. The association also testified in a neutral capacity on the original bill and are sticking with that on the amendment. We want to emphasize that we do agree with the original goal, and that be to make Amazon come into compliance with the whole system and collect the sales tax, all those kinds of things. So we do agree with that. We are a little bit surprised at how complicated the process became in order to get that done. It started out, it seemed like it was going to be a fairly simple thing, and then it became fairly complicated. It really...you have brought up the basic issue to the farm wineries, and that is the sale of the direct shipper's license and that, as Senator Krist so greatly helped in the past session, to remove the sunset from that so that the industry can grow. And I think it's a good investment for the state. So what...the unknown is, are there more licenses sold or are there less licenses sold, and we can't really determine that. We would just say that, any time you increase, maybe, the paperwork or the things you have to do to get a license, it could have some impact on how many licenses you sell. So we would encourage the committee to take a good look at the legislation and make sure that everything that is required really needs to be required because the Nebraska farm wineries don't operate in a vacuum. Nebraska farm wineries want to be able to ship to other states' farm wineries. And if ours is hard for them to ship to us, it just doesn't help the whole system. So we're not saying it is. We're just saying we hope that you would take a good look at that, and we'd want to stay in close communication as changes are made, if they are. With that, I will be quiet. [LB230]

SENATOR COASH: All right, thank you, Mr. Otto. Senator Krist. [LB230]

SENATOR KRIST: Could you just fill in some blanks for us, just for the record, that that fund that comes from the licensing fees is spent on reinvestment? You do a lot of what we do with the University of Nebraska, potentially, finding new breeds or new types of grapes or vines that will survive here in the state. Tell us a little bit about that, just as a review. [LB230]

JIM OTTO: Yeah, that is true, and, I mean, to...I guess one thing is that the farm winery industry and the grape growers, it's not just...it is an agricultural industry, but it's also a tourism industry. There's significant tourism, out-of-state dollars coming in, and there have been significant developments, through the University of Nebraska studies, made, etcetera, as far as which grapes grow the best in Nebraska, how you protect against early frost or late frost or things like that. And so, yes, that's where the money goes. And I want to make very clear that any dollars paid in lobbying comes from their dues and cannot come from that fund. [LB230]

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SENATOR KRIST: Thank you. And how much money is in that fund now, about? Do you have an idea? [LB230]

JIM OTTO: I don't know how much is in it. But there are 297 licenses, so that comes to, right now, \$148,500 a year. So I'm not sure how much is there, but... [LB230]

SENATOR KRIST: You guys do a great job. Thank you. [LB230]

JIM OTTO: Thank you. [LB230]

SENATOR COASH: Thank you, Otto. Any other questions? Seeing none, thank you very much. Is there any further testimony in a neutral capacity on this amendment? Seeing none, Senator Karpisek, any closing comments? [LB230]

SENATOR KARPISEK: Thank you, Senator Coash and members of the committee. I just want to reiterate and thank everyone for coming in and working on this. Again, it gets down to people playing by the same rules and getting some taxes. And although it might not seem like a lot of money, we know that we fight over a lot less on the floor. And I just don't see why anybody should be able to ship in from out of state and not pay when we have people right here that do pay. Kind of talking about, too, why we want them to tell what they're shipping in. Hobie kind of brought up the Four Loko deal and when they decided to pull it off the shelves. If you don't know where that stuff is coming from, it's pretty hard to get it stopped. So again, he knows where things are coming from through the direct shippers now, and he knows where the manufacturers are coming from so, that way, the commission has their finger on the pulse and they know, if something is going wrong, they can stop it. And I think we have had enough dealings with the commission to know that they do. They usually get on things pretty good. And I also don't want...I hope that we don't lose any shippers from right now coming in because I think that going to the grape growers in Nebraska farm wineries is a great thing. And I enjoy their association and, like Mr. Otto talked about, the tourism. The places are beautiful, the wine is good, and it's just another good thing for Nebraska. And the way that it's going, I think we've helped that out. And I certainly don't want to hurt that at all, so I just want to make that clear. Thank you, Senator Coash. [LB230]

SENATOR COASH: Thank you, Senator Karpisek. That will close the hearing on AM249, and we will move to LB244. [LB230]

SENATOR KARPISEK: Welcome, Senator Brasch. [LB244]

SENATOR BRASCH: Thank you. [LB244]

SENATOR KARPISEK: Please proceed whenever you're ready. [LB244]

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SENATOR BRASCH: Thank you, Chairman Karpisek, and good afternoon, members of the General Affairs Committee. I am Lydia Brasch, L-y-d-i-a B-r-a-s-c-h, and I represent the 16th District in the Nebraska Legislature. I am here to introduce LB244, which I have brought at the request of the electrical instructors at Northeast Community College, to provide a requirement for continuing education courses for apprentice electricians. Currently, apprentice electricians register with the Nebraska State Electrical Division, or NSED, at the beginning of their apprenticeship. They must complete four years of work experience and a minimum of 8,000 hours under the licensed electrician. All electricians are required to renew their registration or license every two years. After they have fulfilled these requirements, they apply with the division to take the journeyman electrical exam. If the applicant passes the exam, they are issued a journeyman license. After holding their journeyman's license for a year in good standing, they are allowed to take the electrical contractors examination. Many journeymen never move on to the electrical contractor examination, which is generally taken by business owners or by those who are interested in obtaining electrical permits. For many electricians, becoming a journeyman is the final step in their vocational advancement. As mentioned, the NSED requires apprentices to work under supervision for four years and then allows them to test for their journeymen's licenses. Typically, apprentices who sit for the exam do so with little or no exposure to the National Electrical Code book, which is regionally adopted standard for electricians. This puts the apprentice in a position to fail the exam at least one or more times. If they have a knowledge of basic electricity and the National Electrical Code book, they're in a position to more readily pass an exam. Randy Anderson, of the Nebraska Electrical Division, can address the content and structure of the exam at further length. Records show that between July 1, 2007, and July 1, 2012, the Nebraska Electrical Division administered 2,372 exams with only about 1,121 passing the exam, for an average of 47.67 percent over five years. While the NSED recently started keeping records of what training, if any, was taken prior to sitting for the journeyman's exam, there is not a large enough sample to make any judgments. The testifiers behind me will tell you that they see a higher pass rate among students that finish a community college or a journeyman apprentice training class before sitting for the exam. LB244 adds a requirement to 81-2113 that an electrical apprentice present documentary evidence of successful completion of continuing education courses to renew their registration and adds a penalty for failure to fulfill the requirement. Apprentice electricians would be required to fulfill the same continuing education courses currently taken by journeymen and electrical contractors to renew their licenses. The requirement consists of 12 contact hours of continuing education, containing a minimum of 6 contact hours studying the National Electrical Code. The other hours can be completed in other subject areas or additional hours studying the National Electrical Code. I will briefly note that this legislation carries no fiscal impact for the state; economic impact on the apprentice-electrician would be slight. Calculating a 2,000-hour work year would translate, approximately, to only 4.5 to 6 cents per hour in additional cost to the apprentice, or a total of \$92 to \$120 a year. As I conclude, I want

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to thank you for your time. I believe Randy Anderson of the Nebraska Electrical Division is behind me today, and he would be happy to answer any of your questions from his division's perspective after he has shared his testimony with the committee. Again, thank you for your time, and I would be happy to try to answer any questions. [LB244]

SENATOR KARPISEK: Do we have any questions for Senator Brasch? Seeing none, thank you. [LB244]

SENATOR BRASCH: Thank you. [LB244]

SENATOR KARPISEK: We'll have the first proponent of the bill. Welcome. [LB244]

DANIEL FROHBERG: My name is Daniel Frohberg, D-a-n-i-e-l F-r-o-h-b-e-r-g. I guess I'm here representing myself as a licensed electrical contractor through the state. I'm also an instructor at Northeast Community College for the past 33 years. This is originally where we started and, officially, by the legal counsel at the college, the college itself will take a neutral stance, just so there is no conflict of interest. However, as an instructor, I do see a definite need for apprentices taking that continuing education. We can, like, take a look at two avenues that an apprentice can get to taking the journeyman's exam. If you look at a traditional avenue, the one that I took, you spend four years' experience. You may do nothing but residential work or commercial work, and you spend the four years being told what to do, where to do it, how to do it, those types of things, and not really have a good working command of the National Electrical Code. If you look at the nontraditional, which is the structured training program which we offer at Northeast Community College, they are taking two years of training. The state of Nebraska looks at that two year right now as one-year experience because of the number of hours. So three more years they would need the experience to work in the field to get the training or the background to be able to take the test. No matter what method that apprentice would take, there's a lot of changes, as far as products, methods, installation, National Electrical Code rules that take change or take place during that three years. This would be an example. And this is a good year to do this. In June--this is a report on all the proposals for the 2014 National Electrical Code--there are 3,750 proposals to change in 2014. Traditionally, 250 to 300 actually get out of committee to get into the new code book. Some of them are wording changes. Some of them, if you look at, maybe, 50 to 100 being actual major changes in the code section or the code applications. So in the three-year period, they would be out of 2014 and into 2017 already, even if they went through a structured program like mine or spent the four years in the field. So the changes happen pretty fast, every three years. We think it's important that the apprentice has that continuing education to continue his license. We do offer courses that...on campus for not only the continuing education but licensed prep courses that students can come in. I'm right at about 95 percent passing the test, if they take that license prep course in January for the March test in Norfolk, or in August for the September test in Norfolk. [LB244]

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SENATOR KARPISEK: Very well. Thank you. [LB244]

DANIEL FROHBERG: Thank you. Any... [LB244]

SENATOR KARPISEK: Any questions? I think they must have a few ex-senators in there, making all those proposed rules. [LB244]

DANIEL FROHBERG: It's nonattorneys, yeah. (Laughter) [LB244]

SENATOR KARPISEK: (Laugh) Thank you. Further proponents. Welcome. [LB244]

RANDY ANDERSON: Senator Karpisek, members of the committee, I'm Randy Anderson, R-a-n-d-y A-n-d-e-r-s-o-n. I'm the executive director of the Nebraska State Electrical Division. The division didn't introduce this bill but we are in support of the intent of it. Currently, there are 8,528 licensed electricians in the state. This will bump up to over 10,000. We just are in the ending our renewal period right now and, typically, 1,500 to 1,800 people won't renew, maybe out-of-staters that jumped in for a little bit, did some jobs, and moved out. So I would say 8,800 is probably where we'll end up right now, and then some new ones will come in. Of those, 2,287 are registered apprentices. This bill would help greatly in preparing them for a journeyman exam that is no cakewalk, I guarantee. It's 50 questions, 40 of them on the current National Electrical Code, 6 on electrical theory, 2 on fire, and 2 on state law. You don't know what you're going to hit for a state law question, but you have to brush up. In the state law, you are allowed to bring the Nebraska State Electrical Act into the test, so if you want to look it up. You can't expect everybody to know everything. The passing grade is 75 percent. We're in a group with 17 other states, and I can tell you that some states push hard to have a 30 percent pass rate and think that's good. I totally disagree with those thoughts because it's...Nebraska does not try to create an exam that's impossible to pass. In fact, the board has told me, looking at it, if 50 percent are...if you get up into the 70 percent passing, your exam is too simple and, if you've got 30 percent passing, it's too difficult. As Senator Brasch said, over the last five years we have 47 percent average pass rate. Now that will jump up--to reiterate what Mr. Frohberg said--he trains people in the code. And when we go to Norfolk in March, typically, our overall pass rate will jump up to about 60 percent. The same thing in Omaha. If a JATC, ABC, or a Metro program is coming out of a graduating class, we'll see our numbers jump quite highly. And sometimes the boards see it, you know, Randy, what's going on, that was really high. But that usually explains what's going on. The Electrical Division, per the requirements of State Statute 81-2114, are required to give classes. Years ago, when the act was set up and there was going to be an exam, senators like you said, hey, if you're going to give an exam and that, you should have training and an exam site that moves across the state. Everybody shouldn't have to come to Lincoln to take the exam. So we have six sites across the state. It's always the third Tuesday of the month, unless there is a

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holiday. And they start, say, in January, and it goes North Platte, Omaha, Norfolk, Gering, Lincoln, Grand Island, and then, in July, it starts over with North Platte again. So wherever you are, the exam is going to be close to you twice a year. At that exam...the law was also added in the '80s, when we started with continued ed for licensed electricians. Senators said, hey, well, nobody was given continued ed. So what we do is, four hours prior to the exam, 8:00 a.m. to 12:00, we give a training on how to use the National Electrical Code. And then, 2:00 to 5:00, that same day, they take the exam. It saves us money. We don't have to rent a building twice. We're already out there, staying overnight and, basically, it brings those classes that Senator Brasch was talking about to you. If you attended the two that come to your area, you would get eight hours right close to home, and you wouldn't have to drive very far to get the other hours. Ours are \$40 for that four-hour session, so that would run less than 3 cents because this is...remember, this is for two years. So you're getting...the \$120 is carried over the whole extent of your license. We're also members...I should say, there are 165 private providers that bring...that are either in the state or come to the state or, if you're an out-of-state electrician, you can get your hours from them. So there's just a multitude. And some of those you could get as high as 6 cents, 8 cents an hour, depending on what you're going for. And with the PV training, which is photovoltaic, and some of your new energy saving, this is changing daily. I mean, it's hard to keep up with what's going on. And a lot of electricians, you're busy. You have your apprentice out there working. He never gets his nose in a code book. And then he comes and, I think, the highest we have is 19 times attempting to take the exam and, obviously, not studying hard enough. But at \$60 an exam, that well outweighs what it costs to do a little...some training. We're not looking for tons of hours, you know. We're just looking for 12. At this time we're in a group called Nebraska (sic--National) Electrical Reciprocal Alliance. And what that is, is it's a group of states that are like each other, with a state program. And it allows...say a big job comes into Nebraska and we need to bring an influx of people in. These journeymen that have tested in these other states are allowed to get a license here. The agreement was they have to pay our license fee and then pay for--or our exam fee and then get the license. It gives us a continuous work force but also allows us to go to 17 other states. And those states are Alaska, Arkansas, Colorado, Idaho, Iowa, Minnesota, Montana, New Hampshire, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming. Nine of those states require Department of Labor programs, 576 hours, before you can take your initial journeyman exam. We're looking at an apprentice, in four years, having 24. South Dakota requires 16 hours. South Dakota's penalty, if you don't get these hours, is your two hours of experience is gone. You're nothing. So if you didn't get the hours, now you're going to work six years before you take the exam. Our board felt that was radical. I, myself, wanted the board to put an exact date, but the board wanted to put six months. You'll see, in this bill, it says, with up to six months' loss of work history. What that would mean is, if I am an apprentice and I go two years and I don't get any classes, then, when I go to test, I'm six months short. My four years...up to six months. Excuse me. Six months short, that means I might have to go four and a half years. I might have to go five. The board right now has

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said that, if this passes...John can cover me. The board president is behind me. (Laugh) They were shooting for 90 days. But if it didn't work, they didn't want to be limited by the law and have to come back to you guys to extend it. So even though the bill says six months, we're looking at taking 90 days away, especially in the beginning, and then to see how this goes before we dump it on everybody to...they would just lose three months of work history for not complying. And I think, looking at my notes, that is everything I have, Senator Karpisek. [LB244]

SENATOR KARPISEK: Thank you, Mr. Anderson. Any questions? Senator Bloomfield. [LB244]

SENATOR BLOOMFIELD: Thank you. The various places that folks can take the test, if they fail the test, say, in Norfolk, can they go to the next series of tests, say, in Grand Island? [LB244]

RANDY ANDERSON: Yes, yes. We ended...there used to be a six-month waiting period. At the time I took mine, I failed my contractor the first time, and you were forced to wait six months. We changed that now to you can go the very next month and take it again. [LB244]

SENATOR BLOOMFIELD: Okay, thank you. [LB244]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Any further questions? Seeing none, thank you. [LB244]

RANDY ANDERSON: Thank you. [LB244]

SENATOR KARPISEK: Any further proponents of LB244? Seeing none, any opponents? Do we have anyone neutral? Welcome. [LB244]

ROBERT MORRIS: Thank you, Senator Karpisek. My name is Robert Morris, R-o-b-e-r-t M-o-r-r-i-s. I'm the executive director of the Nebraska Iowa Electrical Council. Our association has been incorporated since 1945, and we're a, sort of, umbrella membership organization in the entire industry. Excuse me. I guess, my position here is officially neutral. We have nothing against the bill. We think it's a good idea. But my concern is the wording on page 4, line 18. If the apprentice does not complete their 12 hours of required continuing education, the language in line 18 says that the board shall assess up to a six-month reduction of required experience, and I think that's exactly the opposite of what's intended. Randy just used the term "loss of work history." I would suggest that, in place of "reduction of," it could be something like "increase in the required experience," because, theoretically, you could not do your continuing education for eight years and, therefore, take your exam. To me, that's the way I read the language here. So I think it's just a matter of getting rid of the word "reduction" and

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something like "loss of work history" or "increase the required experience necessary."
That's all I have. [LB244]

SENATOR KARPISEK: Thank you. We have legal counsel looking at it right now.
[LB244]

ROBERT MORRIS: Okay. [LB244]

SENATOR KARPISEK: It's kind of one of those, almost, double negative, isn't it, the...
[LB244]

ROBERT MORRIS: Yeah, yeah. That's the way I read it. [LB244]

SENATOR KARPISEK: Um-hum. We'll check into that. [LB244]

SENATOR JOHNSON: Good point. [LB244]

SENATOR KARPISEK: Any questions? Seeing none, thank you. [LB244]

ROBERT MORRIS: Thank you, sir. [LB244]

SENATOR KARPISEK: Do we have any further neutral testimony? Seeing none,
Senator Brasch, would you like to close? She's going to... [LB244]

SENATOR BRASCH: I think I'll waive. And we'll amend those (inaudible) lines, but I'll
waive. [LB244]

SENATOR KARPISEK: Sounds good. Thank you very much. That will end the hearing
for LB244. Thank you, everyone. We will now stand at ease until Senator Schumacher
arrives with LR34CA. (See also Exhibit 20.) [LB244]

BREAK

SENATOR KARPISEK: Well, welcome, Senator Schumacher. [LR34CA]

SENATOR SCHUMACHER: Well, just got done with you in our committee. [LR34CA]

SENATOR KARPISEK: I know. [LR34CA]

SENATOR SCHUMACHER: Yeah. [LR34CA]

SENATOR KARPISEK: Whenever you are ready. [LR34CA]

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SENATOR SCHUMACHER: (Exhibits 10 and 11) Okay. My name is Paul Schumacher, represent District 22 in the Legislature, and I'm here today to introduce--she gave me the wrong file (laugh)--LR34... [LR34CA]

_____ : Thirty-four CA. [LR34CA]

SENATOR SCHUMACHER: ...CA, okay, LR34CA. I'm very happy to be here today. I'm glad the bill was referenced to this committee. But I'm not sure it necessarily belonged in this committee because, you see, this committee has jurisdiction over gambling, liquor, and a few other sins. But the measure today does not authorize any gambling. The measure today deals with the constitutional authority of the Legislature and the wisdom of putting in constitutional documents social mores or philosophy of behavior rather than the mechanisms of government. The most glaring mistake or blunder in that area was the experiment in prohibition--the evils of alcohol, the evils of children who might not have a parent who is able to support them because of drinking. And so, wrapped in indignation, it was prohibited. Well, we all know how miserably that ended up, and in a short time it was repealed. Well, our constitution was formed with a similar fervor on two issues and, oddly enough, only two issues, not on issues of banking, not on issues of agriculture or water or criminal activity, but just two issues that the constitution says the Legislature has no authority over. Those two issues, back in 1867, were divorce--can't have any of that--and gambling. And the language was in the constitution: The Legislature shall not authorize divorce or any games of chance. And when it did that, it gave the dead hand--the hand that no longer has ears or eyes or the ability to adapt to changed circumstances--the dead hand, governance. No matter what happens, no matter how much things changed over decade, after decade, after decade, there was going to be no divorce in this state, and there was going to be no games of chance, at least on the record. Every bar out there had its particular version but, on the record, there was going to be no games of chance. Is that policy wise? Is it wise to so tie the hand of the Legislature? Would the people today, the ones with eyes and ears that can see what's going on, be content to put that in the constitution? Certainly, back in 1867, no way to anticipate that all the states around us would have some form of casino gaming and that two of those states would specifically target Nebraska, one in a very big way, positioning more slot machines and games of chance on the Nebraska border, on the doorstep of our largest city and within 60 miles of our largest two cities, than there is anywhere in that state of Iowa, the highest concentration of machines. Well, so what? There's the highest concentration of machines. What is happening? And would those founding fathers have just sat by and done nothing about it? It is at \$10 a second of Nebraska money moves across that bridge to those three institutions that have somewhere on the order of near 5,000 machines. In real terms, somewhere between \$300 million and \$400 million...it's over \$400 million. But let's just say \$300 to \$400 million Nebraska dollars leave the state. We had an economics professor testify before the Revenue Committee last year that says, every dollar you ship out of state ships out a \$1.75 in economic benefit--big, big numbers when you talk in terms of \$300

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to \$400 million a year. That doesn't include South Dakota. That doesn't include the Sioux City operations. That's just the three operations that are in the Omaha-metro area. That translates on the order, for rough figures, to \$100 million a year in tax revenue that we manage to help Iowa with. Iowa, if you look at the numbers, the Iowa Gaming and Racing Commission Web site, every year, up, up, up, the amount of money that moves across that bridge. I think it was at \$411 million to those three casinos lost by players. And the factor--I'm using 75 percent when I come up with the \$300-400 million figure. Iowa's own projections are about 83 percent of that money comes from out of state, and we know, the out of state, what state that is. It's Nebraska. Would those founding fathers have been content to say, ah, well, we have our principles and we're going to stick by it and we're not even going to permit the Legislature to discuss the issue, has no authority over the issue? We can't even debate whether or not gambling is a good thing, a bad thing, whether or not the evils of gambling are there or not there, because it doesn't do us any good. We can't do anything about it. You know, I incorporate by reference the testimony of the interim hearing a year ago and of the resolution last year proposing that we put this matter on the ballot for the voters to look at. And of course, in that particular context, we looked at murder and bankruptcy rates and divorce rates and robbery rates and theft rates and, surprisingly enough, in most of those categories, Nebraska's rates were poorer than Iowa's. Now that doesn't mean that gambling prevents those things in Iowa. It just means that there's very little, if any, correlation between the two. But we don't even get that far. We can't even talk about those things because we can't do anything about them anyway. Would the founding fathers have said, hey, that's just fine for you to be paralyzed while the blood is sucked out of you? No wise government policy does such a thing to its citizens or to its lawmakers. We may well say, well, you know, it's worth the exportation of \$300 million to \$400 million a year, it's worth it because, somehow, we're being saved from the downside of gambling, whatever that is. Or we might find that a rational gaming policy should be adopted, and one, two, however many casinos or games of chance should be authorized. But we can't even talk about it. Now we'll, and you, probably hear today why Nebraska voters have rejected this kind of thinking, time and time again. Well, you know, that's not true. Look back through history. Every gaming proposal that was rejected by any majority at all was a very limited, selfish one. We had one that was in the early '90s, said, slot machines only in veterans' clubs. It didn't pass. We had one that said, off-track betting for horse racing, very limited, very focused little thing--didn't pass. There was one in 1996 that said, keno machines, video keno machines. It didn't pass. And they all get about 37 percent of the vote if they're not popular. That's your...that's what those numbers come in. But there are two times in which a majority of Nebraska's voters said yes in recent times. One was the state lottery, and there was all kinds of doom and gloom proposed on that one--didn't happen. Stopped state lottery money moving across the bridge, but then they opened the casinos. And the second one was in 2004, when a majority of Nebraskans voted for expanded gaming, only it was under the unfortunate circumstances of a split vote. There were two issues on the ballot, two proposals on the ballot that year, one by petition, one by the Legislature. The

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petitions, for a quirky bunch of reasons in the petition law, subdivided the issue into four different things, so all four had to pass for it to work. Two of them passed; two of them didn't. But the poorest performance was 47 percent said yes, and that was a wide-ranging proposal involving various machines and casinos. Now 47 percent saying yes...the other proposal by the Legislature had two or three casinos. That got, I think, 36 percent of the vote. Not everybody who voted for the legislative proposal also voted for the initiative proposal. One out of ten, just one out of ten, which is 3 percent, didn't. You have over 50 percent there. Nebraskans support the idea of responding to the theft that's taking place at this particular time. And recent polling tells me that there is in the high 50 percents of the people that are saying, enough is enough. What this proposal does is, simply, lets the people vote. Now one thing you probably aren't going to hear--and if they are, it would be my...very surprising--a bunch of Vegas lobbyists. Boy, the people from Vegas are going to rip off Nebraska if we authorize any games of chance. Well, you know what? I'll bet you the antigambling forces have more people registered on this than the gambling, because I don't think gambling have any registered on this. And you know why? Vegas could give a hoot. Once the 2004 proposal was defeated, Council Bluffs began a huge gaming expansion in the three operations there, and they have some very professional operations. The Binion group at the Horseshoe: excellent operators. Vegas got what they want. They've got gambling in Nebraska. They don't care where the tax dollars go. And certainly, 900 feet across a bridge doesn't make them any difference. Part of the information submitted today shows that 60-some percent, I think the figure is, of Nebraskans live within an hour of a casino, and 91 percent within 150 miles, roughly, 2 hours, 15 minutes, of a casino. Vegas got it all at once. There's no line of people from Vegas here because gambling is here. But we can't respond to the situation. In 2004, the projections were we were going to be able to bring into the state of Nebraska pre-gambling expansion in Council Bluffs on the order of \$100-120 million a year. Quite honestly, I don't think we can do that now. I think that, probably, now, if we bring in \$80 (million), because that market has really been developed, if we are able to intercept \$80 (million), we'll be doing good. Eighty million dollars a year, plus all the other economic activity from \$300-400 million dripping across the river, where could that go? Well, this bill suggests that, if the Legislature doesn't direct otherwise, it'd go to two areas that are really pressing areas. One is the education of kids under college age. We saw in the Planning Committee that preschool is an area where you get much bang for your buck on education, that kids who are behind the curve because both folks work in, basically, low-paying jobs, which is a kind of a profile of what's going on in a lot of areas of state, they come in short. And when they come in short, they fall "behinder" and "behinder" and "behinder" and end up on every social program imaginable, end up in trouble, and end up making more babies. And our bang for the buck comes if we could put on the order of \$40 million a year into preschool education. We don't have the money, don't have the money. We'd sooner send it to Iowa. And we're going to have a real gut-wrenching debate, probably this session, over whether or not we should expand Medicare--Medicaid, okay? The feds say, we'll throw \$400 million a year at you if you do, but we'll cut it back to \$360 (million)--90 percent--in

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three years. And we say, my gosh, where are we going to come up with \$40 million a year to take care of healthcare in a way that, whether we like the Affordable Health (sic) Care Act or not, it is designed to be taken care of. Where are we going to come up with the money? We hear, cut education. You don't want to do that for Medicaid? Cut roads, you want to do that for Medicaid? How about cutting Iowa? Make Iowa pay for our Medicaid expansion. They've had no conscience in pulling money out of us, year after year after year, since 1995, positioning more and more slot machines on our border. But again, it's all an academic discussion because this committee, this Legislature, is paralyzed. We can't do anything. And maybe the people today would choose to have us continue to be paralyzed, but maybe they won't. And when the stakes are as high as they are--\$400 million a year leaving the state to Iowa and other neighboring states, \$400 million a year from the feds having to be turned down because we don't have the money to come up with \$40 million in three years--\$400 million here, \$400 million there and, pretty soon, you're talking real money. This is a simple proposition of government. This is the people's decision, not any club of self-righteousness who we know will do at all lengths to make the self-righteousness prevail. This isn't the Legislature's decision. This is the people. And since pay by the signature was taken away, which was the only effective way of doing a petition drive, there's only one way that the people can say yea or nay, that this debate can get to the forum that it needs to for just consideration, up and down, and that is if the Legislature puts it on the ballot. Quite frankly, if I were in the antigambling side of things, I'd say, put it on the ballot, because you don't have any money and we do. Probably the same result as what happened to term limits and the salary increase. Antigaming people have money. Vegas is out of the picture. The keno people who did 2004 and 2002--pretty well tapped out. Horse people don't have any money. Pretty lopsided contest if it goes on the ballot, but I would think that, maybe, the people of Nebraska are sharp enough to say, why don't we keep the money in Nebraska? And so, in proposing this bill today--and I've given you supporting information that I hope my memory was accurate on, as far as the numbers that I've given you; I think they're pretty close--what I'd simply ask is: Let the people vote, let the debate go forward. I'll answer any questions. [LR34CA]

SENATOR KARPISEK: Thank you, Senator Schumacher. Any questions? Senator Schilz. [LR34CA]

SENATOR SCHILZ: Thank you, Senator Karpisek. Senator Schumacher, thanks for your testimony and introducing this bill. You know, you talked some--actually, at length--about not tying the hands of the Legislature and making sure that you can respond to the changing priorities of the state, the changing priorities of what goes on with it. And so that's where my question comes from. In the LR itself, you're saying that you're going to throw 50 percent of the money at education and 49 percent of the money for healthcare. Why not just let it go into the General Fund and let the Legislature decide where that should go and what that should be? Because if things change over time, that may not be... [LR34CA]

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SENATOR SCHUMACHER: And that was contemplated, Senator Schilz. The language, if you read the paragraph before, says that the Legislature can put it where it wants but, if it doesn't designate anyplace else, it goes to those two areas. [LR34CA]

SENATOR SCHILZ: I appreciate that. Thank you very much. [LR34CA]

SENATOR KARPISEK: Thank you, Senator Schilz. Any further questions? Senator Murante. [LR34CA]

SENATOR MURANTE: Senator Schumacher, thank you for this constitutional amendment. I have to say, I think this is one of the more intellectually intriguing proposals that I've seen, anyway, this year in the Legislature because, to me, it deals with a subject matter that goes far deeper than gambling or gaming or whatever you want to call it. But it goes to what we're doing here in the Legislature and the relationship between the Legislature and the people of Nebraska. And this is something you and I have talked about at length, and I think we're going to talk about it more in the Government Committee. And so it brings me in a sort of intellectual circle, in that, first of all, at the moment, in order for this Legislature, if it wants to, to expand gambling, we'd have to ask permission of the people. What your constitutional amendment does is takes that step away. We don't have to ask the people for permission anymore but, in order to get that accomplished, we'd have to get the people's permission. So we go around in this circle that, in my view, generally speaking, the people should get what they want and we should put things on the ballot more often. But can you talk a little bit about that philosophy of this piece of legislation and why we are...why should we...why we should be taking the ability of the people to functionally veto something that we do and putting that in the constitution, even if we have their consent to do it in the first place. [LR34CA]

SENATOR SCHUMACHER: What this does will...if, for example, we were to decide to eliminate the death penalty,... [LR34CA]

SENATOR MURANTE: Um-hum. [LR34CA]

SENATOR SCHUMACHER: ...the Legislature has the power to do that, okay? It's not in the constitution that there should be a death penalty; we've got the power to do it. Now there is a referendum mechanism which, probably, has been rendered ineffective by the same mechanism that killed off the initiative petition mechanism, the pay-by-the-signature thing, in which the people, theoretically, could say, we're going to undo an act of the Legislature. But this, instead of going to the people and saying, okay--and it's part of the issue of gambling--okay, we want to put a casino in Omaha, that's what we want to do. Okay, well, guess what? The people that are voting no really think casinos are a good idea. But there isn't going to be one in Grand Island, at Fonner

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Park. Well, why does Omaha get everything? No. Well, what about Scottsbluff or Ogallala? My gosh, what a perfect spot for something in Ogallala near that I-76 and I-80 interchange, to drag money out of...down those two highways from Denver and from Cheyenne. Well, I'm going to vote no because Ogallala wasn't included. And so it is a divide-and-conquer situation. This thing has no business in a constitution. It was there for the same type of emotional fervor that led to prohibition and leads us on, legislatively, to pass some pretty dumb laws once in a while because the fervor is right. Let's ask the people, once and for all, whether or not they want the fervor out of their constitution. And then we'll deal with it, like we deal with the death penalty, like we deal with income taxes, sales taxes, Medicaid expansion, everything else. You know, if we expand Medicaid or don't expand Medicaid, we don't go to the people and say, do we expand it, do we expand it for two years, do we say no? It's part of the responsibility of being the Legislature. And if the people say, you know, we're so leery of gambling and, those people in the Legislature, they can't be trusted, we're paying them too much already, well, then they say no. But if they say yes, then we've got a job. And it won't be an easy job to try to figure out how to do it, but that's an argument and an issue for another day and another set of lobbyists and other issues. [LR34CA]

SENATOR KARPISEK: Thank you, Senator Murante. Any other questions? Senator Schumacher, I just want to ask, just with this piece of legislation, would it authorize any gambling? [LR34CA]

SENATOR SCHUMACHER: It would authorize absolutely nothing, nothing, no Indian gambling, no slot machines, no casinos. That would be another day, for another Legislature. [LR34CA]

SENATOR KARPISEK: Very good. Seeing...any other questions? Seeing none, thank you, Senator Schumacher. [LR34CA]

SENATOR SCHUMACHER: Thank you. [LR34CA]

SENATOR KARPISEK: Do we have any proponents for LR34CA? Welcome. [LR34CA]

LORAN SCHMIT: Thank you, Senator Karpisek and members of the committee. My name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. I appear here today on my own behalf and in support of LR34CA, commend Senator Schumacher for the introduction of the amendment. And it's not easy to follow Senator Schumacher because he uses reason and logic where we frequently find emotion and hysteria. And that doesn't very often happen in a legislative body. So I appreciate the senator's very eloquent explanation of the amendment. It's kind of interesting, it was 30 years ago that I operated equipment in this state under existing statutes which the Supreme Court later on said was legal, of which the Legislature, in their wisdom or lack of, later on declared to be illegal. Those 30 years I do not even like to think of the amount of revenue that this state could have

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garnered if we had allowed that legislation to continue. I would suggest that the horse racing industry would not be in difficulty, that we would have a lot of revenue that would take care of the responsibilities that we now have to face. It's kind of interesting that there seems to be a lot of pressure at the present time to eliminate state income tax. And there will be a need to find some way to replace that lost tax revenue. The Revenue Committee will be studying those sources, I hope, and I would hope that all sources of revenue that might be available to the Revenue Committee would be on the table. Senator Hadley, when I appeared before that committee, asked me for several suggestions and what I would say is...mission would be expanding gambling of one sort or another. I can remember when keno was a topic of discussion, much of it in opposition. Kind of interesting today that many of the entities who opposed that are trying to get their dipper in the keno bucket and they contest furiously for portions of that revenue and seem to have no compulsion to reject that revenue when it is available to them. And I would like to suggest that, perhaps, the Legislature might do what Senator Schumacher has proposed here and give the people a chance to say, maybe the Legislature does have the wisdom and collective intellect to have it address this issue, as we do many other issues. It's kind of interesting...and you'll hear some opposition to this amendment. And I have said it before--I don't know if I've said it before this committee or not--but there is a certain amount of gambling that takes place in this state, some of it legal, a far greater amount that is illegal. I don't believe, in my years I've been around here, which are considerable, that I've ever heard an opponent of such a measure as what Senator Lautenbaugh has proposed or Senator Schumacher has proposed stand up here and say, I would hope that the state of Nebraska would stamp out illegal gambling because it takes money from my children and my neighbors and my relatives, not one word. I've not heard that, and I've been here quite a while. So, ladies and gentlemen, members of the committee, for those persons who will object to this amendment--and I respect their different point of view--I would ask, why do you not, as Senator Schumacher has pointed out, object to the illegal, unlicensed, untaxed, unregulated gambling which dominates this state? Until they do that, I would take very lightly their opposition to this type of an amendment. It's always interesting to me that our good neighbors to the east and the north and the west are so concerned about the morals of Nebraskans that they oppose any kind of expanded gambling in Nebraska, but they still roll out the red carpet and make sure that the roads are open and the lights are on and that they're welcome in the neighboring states. They don't seem to be concerned about the morals of their own constituents. Now it seems to me that I would be more concerned about the morals of Iowans and Coloradoans and South Dakotans than I would be about the morals of Nebraskans. Let the Nebraska Legislature, Nebraska folks take care of their own problems. So I would hope that the committee would send the amendment to the floor and it would get the kind of discussion that it needs. And I would hope that the opponents--and there will be many, and most of them will be financed by people from across the river--will express my concern about the illegal gambling which has siphoned billions of dollars in revenue from the state of Nebraska and from their citizens. It's been a pleasure to be here, Senator Karpisek. I'd

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be glad to answer any questions. [LR34CA]

SENATOR KARPISEK: Thank you, Mr. Schmit. Any questions? Seeing none, thank you. [LR34CA]

LORAN SCHMIT: Thank you. [LR34CA]

SENATOR KARPISEK: Are there any further proponents? Seeing none, opponents. Welcome. [LR34CA]

GLEN ANDERSEN: Thank you for having me. It's a privilege to be here. And at this time, I sure wish I was one of those silver-tongued orators. And I would like to start with Senator Schumacher's mentioning of that it's a people's decision. But I have a little problem with that. After this or if this passes, it's no longer the people's decision. It's 49 people's decisions, and that's a concern of mine. And one group of legislators is not the same as the next group of legislators. And this is one of those things where, if a change of the magnitude of getting casinos in the state happens, it stays. [LR34CA]

SENATOR KARPISEK: I'm sorry. Can you tell us your name and spell it? I'm sorry. [LR34CA]

GLEN ANDERSEN: I will. I'm sorry. My name is Glen Andersen. It's G-l-e-n A-n-d-e-r-s-e-n. [LR34CA]

SENATOR KARPISEK: Thank you. [LR34CA]

GLEN ANDERSEN: Okay. Gentlemen, from my reading of the amendment, I understand that this would allow the Legislature to authorize any kind of gambling, including casino gambling and even interstate gambling or Internet gambling. Excuse me. And one is scary, but one is even more scary to me. I have, in my following testimony, I've mostly considered the casino gambling. But the Internet gambling just come up, realizing that that could be part of it. Now Internet, like I say, that's even scarier. This form of gambling has almost infinite accessibility at any time of the day for anyone, and it's at any place. It can be in the home; it can be in a business; it can be in the bathroom, whatever. And this possibility...and it's possible for this Internet gambling to be extremely fast, allowing very fast losses of money. And this particular possibility is enough, in my mind, to make the amendment to fail, just because that is such a concern. Since gambling can be authorized, I have to assume it will be authorized and this amendment will be passed. There are a number of ways of looking at gambling issues. We can consider it a source of tax revenue. The problem is that a disproportionately small number of people lose most of the money, and the government gets a very small amount of that part. So it's a very inefficient way to raise taxes. And general economic activity--the money lost to gambling is not spent in local businesses.

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And of course, we all know of social ills--pain inflicted to families, retirees, even successful people. And if we look objectively at the gambling issue from all these different directions, like I just mentioned, it comes up a loser. Actually, I should modify that, for where there's a loss, somewhere, there is a gain. Yes, there's certain people and certain businesses that are going to benefit quite extensively from this industry, and they would be the owners and operators of casinos and whatever. A part of...and then the next part of my topic here or my next topic I have...a part of this proposed amendment includes a section that it designates where the tax revenues are to be appropriated. I ask you, if the Legislature is wise enough to determine the future of gambling in the state, why does this amendment have to specifically say that a certain portion must go to education and a certain portion to healthcare and a certain portion to compulsive gamblers? Why must the Legislature be hamstrung in determining where the revenues are allocated? It seems to me that the reason for this is that it's window dressing. It appears that the purpose is to make the gambling issue more palatable. It is saying, look at the good things that will be done with the money generated by gambling. Of course, this begs the question, why must we make this amendment look pretty? And I...Senator Schumacher brought up an argument that always comes up. And any time I've had a conversation with anyone about gambling, it's the fact that the money lost by Nebraskans in Iowa casinos goes to Iowa, or some of it goes to Nevada, but it is money lost to Nebraska. If we had casinos in Nebraska, that money would stay in Nebraska. This argument probably can't be refuted. It's probably correct. But, gentlemen, that argument misses the most important point. Adding casino gambling in Omaha or Lincoln or Grand Island may reduce the amount of money that crosses the Missouri River, but it certainly increases the gambling in Nebraska. Easier access to gambling will increase gambling. It will certainly increase the amount of money lost by elderly on Social Security. It will certainly increase the gambling losses by a mother or father of children. It will certainly increase crime resulting from gambling losses. And the problem of Iowa getting the money lost by Nebraska is hard to take. I don't like it. It is hard for Nebraskans to accept. We resent what is happening, we truly do. I think all of Nebraskans do. We resent that Iowans are benefitting from our losses. Gambling...gentlemen, resentment is a very strong emotion. According to Wikipedia, the expert there, resentment is an emotionally debilitating condition that, when unresolved, can have a variety of negative results. Common sources of resentment include publicly humiliating incidents, such as accepting negative treatment. And that's what Iowa has been doing to us. But, gentlemen, resentment is not a way to make decisions. Anyone who is a businessman knows that he makes decisions on emotions such as that, he's got a problem. The determination of whether we're going to continue to take the high road or the low road should be based on what is the right thing to do. What is the right way to raise taxes? What is the best for the economy? And what is best for families? That concludes my presentation. [LR34CA]

SENATOR KARPISEK: Thank you, Mr. Andersen. Are there any questions? Senator Schilz. [LR34CA]

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SENATOR SCHILZ: Thank you. Mr. Anderson, thanks for coming in today. I appreciate it. I just have a couple things here. You'd mentioned the Internet gambling, and I understand what you're saying. I mean, I've seen it right now. People in the state of Nebraska are getting on the Internet today and gambling with dollars and, as far as I understand, a lot of these poker sites and things like that, they're able to do that legally. Does that then...I mean, I guess the question is, isn't it already happening? [LR34CA]

GLEN ANDERSEN: Well, I can't answer your question. But I can ask you another question. If that's already happening, won't it also get worse if Nebraska is proposing...being a proponent of gambling? Won't it make things more difficult? [LR34CA]

SENATOR SCHILZ: Right. Let me then ask you this question. You were talking about the benefits of the industry, the benefits of gambling that are there right now. Do you see all of those benefits going across the river to Iowa, or are there some benefits that Omaha is receiving because of the gambling that's happening over there? [LR34CA]

GLEN ANDERSEN: I can't answer that. [LR34CA]

SENATOR SCHILZ: Well, then let me ask you this. [LR34CA]

GLEN ANDERSEN: I have had discussions that... [LR34CA]

SENATOR SCHILZ: Let me ask you this, sir. [LR34CA]

GLEN ANDERSEN: ...there are restaurants that have lost a lot of business because of it, yes. [LR34CA]

SENATOR SCHILZ: They can prove that? [LR34CA]

GLEN ANDERSEN: I've been told that they can prove that. But I can't... [LR34CA]

SENATOR SCHILZ: Okay, so, anecdotally, you've heard somebody say that. [LR34CA]

GLEN ANDERSEN: I'm going to have to say it's second- or thirdhand... [LR34CA]

SENATOR SCHILZ: Okay. [LR34CA]

GLEN ANDERSEN: So I'm not going to the... [LR34CA]

SENATOR SCHILZ: Do you think that there's...and I don't...and I'm trying to get my questions through quickly. [LR34CA]

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GLEN ANDERSEN: Okay. [LR34CA]

SENATOR SCHILZ: Do you think that there's some people that go to the casinos in Iowa and then, possibly, buy a hotel room in Omaha and stay there, go to restaurants in Omaha and stay there? Do you think that any of that is happening? [LR34CA]

GLEN ANDERSEN: Hmm. I don't know whether that's good, bad, or indifferent, sir, I really don't. [LR34CA]

SENATOR SCHILZ: Okay, well, it...no, it does (inaudible), and I'm going to get to the point of why it does. [LR34CA]

GLEN ANDERSEN: Okay. [LR34CA]

SENATOR SCHILZ: So in my question, what I'm asking is, because there are casinos that are sitting right across the river, that, somehow, Omaha is receiving some benefit from the way the constitution and the laws are based now, that is precluded from any other place in the state because you can't build anything else in the state. And when Senator Schumacher talked about other areas that could have casinos there and he brought up Lake McConaughy and, possibly, Ogallala and that area in there, two-and-a-half hours away from that area is one of the largest metropolitan areas--that is the largest metropolitan area that's the closest to the state of Nebraska, and that's the front range of Colorado. If those folks are traveling 200 miles and have the opportunity to bring some of that economic development to the western part of the state, is not this policy and the constitution, the way it is written now, to the detriment of rural Nebraska, where we are today? [LR34CA]

GLEN ANDERSEN: It's to the advantage of rural America. [LR34CA]

SENATOR SCHILZ: Really? Even though we can (inaudible)... [LR34CA]

GLEN ANDERSEN: I think that we are unaware... [LR34CA]

SENATOR SCHILZ: Excuse me, sir. Sir, sir, sir,... [LR34CA]

GLEN ANDERSEN: ...of the benefits that the lack of gambling has given Nebraska. [LR34CA]

SENATOR SCHILZ: Okay. Even though there is opportunities everywhere else around this state to take Nebraska dollars and spend them and we've proven that they are doing that, if that's the case, then is not eastern Nebraska, the populated areas of Nebraska, receiving some benefit when other areas cannot? [LR34CA]

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GLEN ANDERSEN: I don't know how Omaha is getting advantage. I guess I don't understand that. [LR34CA]

SENATOR SCHILZ: You just told me...excuse me. You just told me that you can't say whether or not people are staying in hotels when they go over to the casino and gamble. You just told me that you say that you can't tell me whether or not people are using restaurants. Could it be assumed then that that could be happening? [LR34CA]

GLEN ANDERSEN: I'm sure that some people would stay in Nebraska and some people would stay in Iowa. [LR34CA]

SENATOR SCHILZ: Okay, thank you very much. [LR34CA]

GLEN ANDERSEN: Okay. [LR34CA]

SENATOR SCHILZ: I appreciate it. [LR34CA]

SENATOR KARPISEK: Thank you, Senator Schilz. Senator Bloomfield. [LR34CA]

SENATOR BLOOMFIELD: Thank you, Senator Karpisek. Mr. Andersen, when we were talking, you were talking about how the money was to be spent that would be gained from the gambling. If the language were to disappear that says how it would be spent, would that make you feel a little better, if we just left that power with the Legislature? [LR34CA]

GLEN ANDERSEN: It wouldn't make me feel much better. And I'm...the reason I brought that to your attention is that the writers of the amendment felt a need to make this amendment look better so that it's...more people will accept it and it's more likely to become law. It's something that makes it look like it's doing something good. And I don't know why a lot of other of our laws don't do that, or bills, if it's a good way to get a bill in. [LR34CA]

SENATOR BLOOMFIELD: If that amendment...were we to amend this constitutional amendment--I just said that the power to spend that money lies with the Legislature--that, to me, would take that "beauty cream," if you want to call it that, away from the bill. I would think that would maybe lessen your heartburn a little bit. [LR34CA]

GLEN ANDERSEN: Well, my concern is that we have no...that the citizens have no idea what's really going to happen when any given legislators meet to...in the future. I think it becomes too far out of control. It's one step beyond control of the voters. [LR34CA]

SENATOR BLOOMFIELD: Well, the benefit to that though in my mind, is that, if the

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Legislature approves it, if it's not working five years down the road, another Legislature can do away with it. [LR34CA]

GLEN ANDERSEN: I...that is a big concern of mine is...in that I feel that that would be very, extremely difficult if we had casinos, like across the river in Iowa or in Omaha and Grand Island. I don't think that there's any way that we could reverse that. It's an irreversible trend, almost, if this... [LR34CA]

SENATOR BLOOMFIELD: It just takes 25 votes. Thank you. [LR34CA]

GLEN ANDERSEN: I think I would argue with you. I think it would be difficult. [LR34CA]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Senator Johnson. [LR34CA]

SENATOR JOHNSON: Thank you, Chairman. Early on, you commented about leaving the vote in the hands of 49 people. [LR34CA]

GLEN ANDERSEN: Yeah. [LR34CA]

SENATOR JOHNSON: Would you agree that a constitutional amendment where all of the people of the state of Nebraska would...okay, let's say they vote in favor of this constitutional amendment, so they have spoken. So that is the voice of the people. You would agree with that, I would assume? [LR34CA]

GLEN ANDERSEN: Well, I think one thing that I brought up was Internet gambling. It doesn't even enter most people's minds. [LR34CA]

SENATOR JOHNSON: Well, I'm not talking about the type of gambling. I'm just talking about the resolution where they... [LR34CA]

GLEN ANDERSEN: But this opens the door for that, and people voting for this would be unaware of that possibility when they're voting. [LR34CA]

SENATOR JOHNSON: I'm sure that those opponents will bring that out when the time comes. I guess what I'm trying to get at is the representation...the state of Nebraska would...let's say they vote in a constitutional amendment to approve this. Then in that next election or in that election, those people, by districts, have that same responsibility to elect the Legislature, elect the 49 representatives. So we, in effect, are representing now a smaller group, but there's 49 others to represent the entire body. So we are still representing our constituents on a district basis which, in effect, represent the entire state. So I don't think that the 49 legislators will react much different than what the entire state would and be very receptive to the ideas of our constituents out there and what they want and don't want. I think they would still control us to the point where we would

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not be reelected if we really go against their wishes. [LR34CA]

GLEN ANDERSEN: My response to that is that, when you run for office, you're running on a whole list of issues and different things, and this is only one item on that list. If someone voting sees that some senator or the senators that he's interested in is a proponent of certain issues that have nothing to do with any gambling might just vote for him, in spite of the...or he may be unaware of the stand on gambling since gambling is not the only issue before you. [LR34CA]

SENATOR JOHNSON: Well, I would agree with that. [LR34CA]

GLEN ANDERSEN: Yeah. [LR34CA]

SENATOR JOHNSON: I would truly agree with that. I think the voters then have to decide what their priorities are, and the priorities might have been, earlier on in a vote, to approve the constitutional amendment. So we just have to weigh that in as we make our decisions. Thank you. [LR34CA]

SENATOR KARPISEK: Thank you, Senator Johnson. Senator Lautenbaugh. [LR34CA]

SENATOR LAUTENBAUGH: Thank you, Senator Karpisek, and thank you for coming today, sir. I just want to make sure that there's a clear understanding that, as you read the amendment, it does not specifically authorize Internet gaming, is that correct? [LR34CA]

GLEN ANDERSEN: That's correct. [LR34CA]

SENATOR LAUTENBAUGH: Or really, it doesn't specifically authorize any other form of gaming. [LR34CA]

GLEN ANDERSEN: But my understanding of the bill is that it does not limit any form of gambling in Nebraska. There's no limitation and, consequently, it would include any kind of gambling possible. [LR34CA]

SENATOR LAUTENBAUGH: But I think you'll concede that we would have to actually pass a law authorizing these things for them to come into being. Is that...after...if the amendment passed. [LR34CA]

GLEN ANDERSEN: Well, it's certainly...when the amendment passes, then it's up to the Legislature to depend on what forms of gambling will be allowed or what's going to be proposed, yeah. [LR34CA]

SENATOR LAUTENBAUGH: Thank you. And I think those three provisions in there as

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to how the money is going to be spent are just the default provisions if the Legislature doesn't otherwise specify. Is that your understanding as well? [LR34CA]

GLEN ANDERSEN: Technically, I understand that that's correct but, in reading it, it makes it appear to...it did to me until it was just explained to me a little while ago. It made me understand that this is the way it was set. See, I didn't really understand it, and I suspect that other people would not understand that alternate way of approaching appropriating the money. [LR34CA]

SENATOR LAUTENBAUGH: So I guess if, you know, money being fungible, what if it just was directed to these specific things clearly and then we replaced the money that we were previously spending on education and spent that somewhere else? Would it really matter how these funds are distributed? [LR34CA]

GLEN ANDERSEN: Exactly. It wouldn't matter. And so why are you trying to define where it's going in the first place? [LR34CA]

SENATOR LAUTENBAUGH: And what your worry is, is there's a danger people will vote for this. [LR34CA]

GLEN ANDERSEN: I'm trying to understand the motive for putting those things in there. [LR34CA]

SENATOR LAUTENBAUGH: Well, I mean, I think you indicated earlier that you thought it was possible that this could lead people to actually vote for this. [LR34CA]

GLEN ANDERSEN: I'm sorry. My hearing isn't quite as good as it should be. [LR34CA]

SENATOR LAUTENBAUGH: Yeah, my mike was pushed away. I apologize. What I'm getting at is you seem to have a concern that this would actually pass if we just put... [LR34CA]

GLEN ANDERSEN: Yeah, I have a concern. [LR34CA]

SENATOR LAUTENBAUGH: Okay, thank you, sir. [LR34CA]

GLEN ANDERSEN: Okay. [LR34CA]

SENATOR KARPISEK: Thank you, Senator Lautenbaugh. Any further questions? Seeing none, thank you, Mr. Andersen. [LR34CA]

GLEN ANDERSEN: Thank you for having me. [LR34CA]

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SENATOR KARPISEK: Further opponents. Welcome. [LR34CA]

PAT LOONTJER: (Exhibits 12-16) Thank you. I'm Pat Loontjer. I'm the executive director of Gambling with the Good Life. I reside at 2221 South 141 Court in Omaha, Nebraska. [LR34CA]

SENATOR KARPISEK: Can you spell it, please? [LR34CA]

PAT LOONTJER: L-o-o-n-t-j-e-r. [LR34CA]

SENATOR KARPISEK: Thank you. [LR34CA]

PAT LOONTJER: We are opposed to this amendment because we believe that it removes the power from the people and it is an attempt to override what Nebraskans have spoken loudly on, which is expanded gambling, and the three times, that I have noted, that it was defeated at the ballot box. Nebraska is very fortunate to have a constitutional amendment that does not allow Class III gambling, which is slot machines and casinos. There are other states surrounding us that are not as fortunate. And Iowa, in the early '90s, they woke up to read their papers to find out that their legislature and their governor had signed a law allowing for two riverboat casinos that had lots and lots of restriction on them, as far as to how many hours a day they were supposed to cruise, that they were claiming that they would bring prosperity, that they would help education, that they would bring tourism to Iowa. They had restrictions on how much the loss would be, what the voting limit would be, how many hours they would cruise, etcetera, etcetera. And it was just a matter of time that, the next year, the gambling lobbyists went back to the Iowa legislature and they started wheedling away at all of those restrictions until we get to the fact today that there are now 21 full-blown, land-based casinos in Iowa. They're no longer riverboats. They're no longer floating. They certainly have not helped education to the point that they were promised, and that's what they wound up with. But what they did wind up with is this report that I'm going to give you. And it was from the Sioux City Journal, October 12, 2011. It says that at least one in every ten Iowans is at risk of developing gambling problems, according to a new report by their state Department of Public Health. It said that 13.1 percent of Iowans are at risk for gambling problems. That's extremely high, nationwide. It goes on to say that more than one in five adult Iowans, or 22 percent, report having been regularly affected by the negative gambling behaviors of family members, friends, and others. Iowa currently ranks high amongst the states with gambling opportunities, and this is the result: They have a tremendous rate of gambling addiction and a tremendous rate of population that's negatively affected. I also have a report from the Kansas problem gambling treatment. In Kansas, they have three lottery-owned casinos and five tribal casinos. And their report shows that slot machines were listed as the primary gambling activity by a wide margin of the people who had addictive...a problem gambling situation. Sixty-six percent blamed their addiction on slot machines. Interestingly, 81 percent of women

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listed slot machines as their game of choice and the addiction. In the same report it says, the data examined for this report reveal a great concern: statistics indicate there are many more Kansans who struggle with the disorder of gambling that have not yet sought help. They currently estimate that 24,484 adults in Kansas are considered to be pathological gamblers, and they list the chart on the back of this showing the percentage that they believe are problem gamblers and the tiny little slot of those that have actually sought treatment. There's so many more. And then this last one was the conclusion of that report, and it shows...it will show you just exactly what gambling has...and that's, you know, relatively small, with only five casinos...trouble with relationships, gambling debt, bankruptcies filed, psychiatric illnesses, and on and on. You know, this is what gambling will bring to a state. It's nothing positive for our families or for our businesses. It may benefit a few, but it's going to be at the cost of many. There is...last thing I'll leave you with is the article done February 8, 2013. It's an editorial in the World-Herald, precisely talking about this particular amendment. And it's called, "Don't roll these dice." And it says...it talks about how many times it's been rejected, expanded gambling. And it says, were it to get on the ballot and be approved by the voters, LR34CA would transfer the power to regulate new gambling ventures from the people to the legislatures. And as you know, we're talking about 25, at some future date, would be able to decide these important issues. And it says, who knows where this might lead? Video keno? Slot machines at horse tracks? Internet gambling? No further voter okay would be needed. So that's what I'd like to share with you today. I also want to address something that was said previously as to why--by Loran Schmit--why don't we object to illegal gambling. Gambling with the Good Life certainly does object to illegal gambling. We're not in a position to do anything about it except to encourage the Attorney General, whenever he does, you know, find those slot machines or whatever is going on. So we certainly don't support illegal gambling that's currently going on. And the other insinuation was that some of the testifiers that are testifying today are being supported by the gambling interests across the river. That...nothing could be farther from the truth. Nothing could be farther from the truth. We are not affiliated with any other gambling revenue across the boat or anywhere. So that's an untrue statement. And I would just like to leave you with that and take any questions you might have. [LR34CA]

SENATOR KARPISEK: Thank you, Ms. Loontjer. Senator Johnson. [LR34CA]

SENATOR JOHNSON: Thank you, Chairman. You've given us some facts here dealing with two other states, primarily Kansas and Iowa. What attempts have the legislature or the citizens of those two states attempted to outlaw gambling? I mean, you've presented a story that's...the problem, evidently, in their mind, or some of these that have written the articles, anyway, are saying, you know, we have a definite problem. Have they made any attempts to try and curtail it? [LR34CA]

PAT LOONTJER: Not that I know of. It's extremely difficult with anything, once it gets in,

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to ever try to roll it back. But it was...lottery was mentioned that it got in. We were not formed at the time that the lottery...we would have definitely protested having the lottery also. But we were not organized until 1995, and that went in prior to that, I believe. Once something gets in, it's almost impossible to reverse it. [LR34CA]

SENATOR JOHNSON: But you're not aware that they've...anybody has, by petition or anything, has tried to curtail it, eliminate it, reduce it, or anything? [LR34CA]

PAT LOONTJER: Not to my knowledge, because, once...even if it's, say, \$10 million is going into the treasury--any number you want to use, \$10 million, \$100 million, whatever it is that goes into the treasury and gets used--any attempt to take it out will be...well, South Dakota was one. They did. And then the governor came out and said, well, if we take it out, if we stop the slot machines, what are you going to do to substitute this loss? We're going to have to raise taxes. Well, everybody's ire goes up when you do something like that. When national statistics say that, for every \$1 a state gains in gambling revenue, it costs \$2 to \$3 in social costs, but that's not seen whenever you're talking about taking something out of the treasury and then trying to replace it. So it's very, very difficult. [LR34CA]

SENATOR JOHNSON: Thank you. [LR34CA]

SENATOR KARPISEK: Thank you, Senator Johnson. Senator Schilz. [LR34CA]

SENATOR SCHILZ: Thank you. Ms. Loontjer, thank you for coming in today. And I'm reading through this article here and it says, as you said, one in every ten lowans is at risk of developing a gambling problem. And then the very next paragraph, the first sentence says, while Iowa's percentage of pathological gambling remains low at about 1 percent, then it goes on to say, 13 percent are at risk. And so my question is--and I'm trying to compare apples to apples--and I think you're saying that...does Nebraska have a percentage of...do they know what their percentage is of folks that are having gambling problems? [LR34CA]

PAT LOONTJER: Huh-uh. [LR34CA]

SENATOR SCHILZ: We don't do that study? [LR34CA]

PAT LOONTJER: Well, the only thing, that I understand, that we have is from the compulsive gambling addiction program that they publish. The one report I saw said that the average gambling debt was \$27,000 for the...that had reported...people who had gone for treatment, that that was the average debt. [LR34CA]

SENATOR SCHILZ: But we don't know how...what percentage that is or anything like that. [LR34CA]

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PAT LOONTJER: I don't know that. [LR34CA]

SENATOR SCHILZ: But you admit though that there are problems with gamblers in Nebraska as well. [LR34CA]

PAT LOONTJER: Oh, absolutely. Oh, absolutely. Oh, absolutely. [LR34CA]

SENATOR SCHILZ: Okay. [LR34CA]

PAT LOONTJER: I just believe that increasing gambling is going to also increase that addiction also. It's all about location, location, location. [LR34CA]

SENATOR SCHILZ: Do we have...do you have history of Iowa's percentage and how it has increased then, if you...is that an assumption on your part? Speculation on your part? Or do you have the numbers to back up that the Iowa numbers have actually increased since the gambling has come into place? [LR34CA]

PAT LOONTJER: I just pulled the latest report to see what was happening, and that's the report that I have. [LR34CA]

SENATOR SCHILZ: It's...but you...1 percent is where they're at. [LR34CA]

PAT LOONTJER: I don't have the past reports. I have... [LR34CA]

SENATOR SCHILZ: Okay, do you know if those are... [LR34CA]

PAT LOONTJER: I thought you'd want to see the most recent in both those states. [LR34CA]

SENATOR SCHILZ: Well, I think it's important that, if it does increase, that we understand that. [LR34CA]

PAT LOONTJER: I would agree. [LR34CA]

SENATOR SCHILZ: And if you could show that, I'd be very happy to see that. I think it's important for the discussion. [LR34CA]

PAT LOONTJER: I can't help but think that, you know, as the number of casinos have grown, so would the number of addictions. And they're constantly growing in Iowa. They're always expanding because just...when gambling interests come into a state, they almost invariably build on a border because they want to entice the state next to it to...you know, that all your money is going, whether it's South Dakota or Kansas or

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whatever, to entice them into the gambling business. And that's what they're doing with the communities in Iowa now. They're going, community by community, and, literally, it's like civil wars as to which community is going to get a casino because all the money is going to the next community. And it just seems never ending. Once you open that door, it just keeps expanding and expanding. [LR34CA]

SENATOR SCHILZ: Hmm. Okay, then I guess my next question...and I go to this and I don't know what the percentage of people who drink, you know, are considered problem drinkers or alcoholic. But since prohibition...and I don't know where those numbers are. I'm just wondering if we can compare apples and apples there. Is there correlation with other addictions? [LR34CA]

PAT LOONTJER: Oh, the... [LR34CA]

SENATOR SCHILZ: And do you see that same rise in everything else that becomes available and able to do? [LR34CA]

PAT LOONTJER: You know, in that report, it tells about the relationship that the people have been treated are...have a propensity to other additions. [LR34CA]

SENATOR SCHILZ: So... [LR34CA]

PAT LOONTJER: I think one of the things about the nonsmoking in Iowa which I thought was so interesting,... [LR34CA]

SENATOR SCHILZ: Um-hum. [LR34CA]

PAT LOONTJER: ...when Iowa, just a year or two, went nonsmoking in all their businesses, they did not go nonsmoking in the casinos. And I thought that was interesting because I think it shows the strength of the lobbyists in the legislature to exempt that one form of business. But that business felt that they needed that exemption in order to keep the gamblers happy. So I think all of those weaknesses, and it's in that report of how many are tied together. [LR34CA]

SENATOR SCHILZ: Right, right. So then, I guess, my last...and maybe it's a comment more than anything. But as we look at the issue and as we watch what happens, what we're finding out...and you can tell me if I am stating this incorrectly. What we find out is there are people out there that have addictive personalities that, whether it's alcohol or gambling or shopping or, I mean, you name it, there's probably somebody that's addicted to it. Those folks have a propensity to find some way to end up in a situation that is not good for them personally. [LR34CA]

PAT LOONTJER: Right. I would agree with you. But my point is I don't think the state,

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who realizes that there is that propensity for addiction and for financial devastation and, in many cases, many other things that go along with it, that they should be encouraging that by promoting a, quote, vice, or an addictive product on their people. [LR34CA]

SENATOR SCHILZ: Right, so...but then, if 99 percent of the people don't have an issue with it, is it the government's responsibility to keep them from themselves? [LR34CA]

PAT LOONTJER: You know, I...there again, when you've got 25,000 or almost 25,000 known problem gamblers in Kansas with only five casinos and the number of those people, those 25,000, that affect other people in that circle--you're talking 100,000 or more--I think you've got to be concerned for those people. [LR34CA]

SENATOR SCHILZ: And I don't deny that at all. I don't deny that. Thank you very much. [LR34CA]

PAT LOONTJER: Okay. [LR34CA]

SENATOR KARPISEK: Thank you, Senator Schilz. Any...Senator Murante. [LR34CA]

SENATOR MURANTE: Hi, Pat. Thanks for coming today. I've heard you testify on a number of gaming bills over a period of years now. Probably, the argument that I hear most is: The people of Nebraska have spoken on expanded gambling, they've gone to the polls repeatedly, and they've said, absolutely not. So if you're so confident that the people of Nebraska are opposed to expanded gambling, then what is your concern with this piece of legislation? If we put something before the people of Nebraska, they'll just vote it down and you don't have anything to worry about. [LR34CA]

PAT LOONTJER: Well, that could very well be. And what was addressed by Mr. Andersen is that, if the voters are misled by the good things that it's going to do for education and for...you know, only 1 percent is going for gambling addiction. If they're sold a bill of goods that...and they're misled that it's not going to go into the General Fund...and it's a lot of work. It's a...we really are not well-funded, as been led to believe. The last times that it was on the ballot, the last two times, Nancy Osborne and I literally got in a rented van and drove the state and gave out, you know, yard signs and information packets and...because we don't have the money to buy the airwaves. We've never been able to buy media time. It's just way too expensive. So it's an exhausting process to try to get the truth out. We did, you know. [LR34CA]

SENATOR MURANTE: But that, what you're saying right now, is kind of my concern, that in your view, we, as state senators, should respect the will of the people, provided that the will of the people agrees with you and, if the people go to the polls and say yes on this, that their vote was bought or they were misled. But if they vote and disagree with you...or if they vote and agree with you, then they're the fount of wisdom and we

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should respect everything they have to say. I don't think that you can have it both ways.
[LR34CA]

PAT LOONTJER: But, you know, Senators, you're down here to decide what's best for your constituents and what's best for the people. If we put everything on the ballot, there's no necessity for the 49 senators. And I believe--this is in the constitution, and it's been in there for a long time--it's worked. As far as we're concerned, it's worked. Why change it? Why do we have to put it back and do it again and again and again?
[LR34CA]

SENATOR MURANTE: Well, your last part I do agree with a portion of what you say. I don't typically buy into the argument that any constitutional amendment we should just vote yes on because the people will vote for it, and it doesn't matter how idiotic the idea is, we should just send it to the ballot and let the people vote up or down. But like I said, the majority or at least the...you lead your argument on respect the will of the people; members of this Legislature, don't vote to lower keno times, don't vote for historic horse racing, because the people have already voted on it or have voted on expanded gambling. But then you tell us, don't send a proposal to allow the people to express themselves, and the two seem in conflict with each other to me. [LR34CA]

PAT LOONTJER: Well, but this proposal is taking power away from the people.
[LR34CA]

SENATOR MURANTE: Through the people's consent. [LR34CA]

PAT LOONTJER: You know, if you want to put a casino or a keno or whatever on the ballot, they'll vote on it. You're taking that power away from them, giving it to 25 individuals at a later date down the road. So this is taking the power away from the people. It's not putting keno on the ballot. It's not putting slots or horse slots on the ballot. [LR34CA]

SENATOR MURANTE: But do you see what I'm saying? When it sounds to me like your argument is that the will of the people ought to be respected, unless the people go to the polls and vote on something that you disagree with and then we shouldn't pay attention to them anymore, does that...like, that, to me, sounds like the root of what you're saying and that we, as a 49, are autonomous as long as we agree with what the people say and the people agree with you. I mean, do you see where I'm coming from at least? [LR34CA]

PAT LOONTJER: Kind of. [LR34CA]

SENATOR MURANTE: Okay, well, that's a start, I guess. [LR34CA]

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PAT LOONTJER: (Laugh) We're getting there. [LR34CA]

SENATOR KARPISEK: Thank you, Senator Murante. Senator Bloomfield. [LR34CA]

SENATOR BLOOMFIELD: Pat, do you know, right off the top of your head--and it's easy enough to find--when was the last year that... [LR34CA]

PAT LOONTJER: 2006. [LR34CA]

SENATOR BLOOMFIELD: Two thousand six. Okay, thank you. [LR34CA]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Senator Lautenbaugh. [LR34CA]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman, and thank you, Ms. Loontjer. But to be clear, this particular proposal has never been before the people, to your knowledge. [LR34CA]

PAT LOONTJER: Correct, correct. [LR34CA]

SENATOR LAUTENBAUGH: And your concern is that the language in here about the default position for the distribution of the revenue might have...might mislead some people into voting for this. [LR34CA]

PAT LOONTJER: That's part of the reason. [LR34CA]

SENATOR LAUTENBAUGH: Well, I'm not really a big fan of wanting to mislead them either. So I would just commend to you that you should think of it in no other term other than horse slots, because people might conclude that you're either trying to mislead or, yet, incredibly, you still don't know what a slot machine is. So if you could maybe work on that because, if we're not going to mislead, we shouldn't mislead. [LR34CA]

PAT LOONTJER: Okay. [LR34CA]

SENATOR KARPISEK: Thank you, Senator Lautenbaugh. Any further questions? Pat, could I just ask you, real quick, the Kansas thing, what it's from? [LR34CA]

PAT LOONTJER: Oh. [LR34CA]

SENATOR KARPISEK: The other two have the World-Herald and a Sioux City Journal. [LR34CA]

PAT LOONTJER: Yeah. I only have the first copy of it, but it's from the Kansas problem

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gambling treatment enrollment for the year 2012. [LR34CA]

SENATOR KARPISEK: Okay, thank you. I know... [LR34CA]

PAT LOONTJER: I can...this is the only copy. You'd be more than welcome to have it. [LR34CA]

SENATOR KARPISEK: I know you said it. I just missed what you had said. [LR34CA]

PAT LOONTJER: Okay. [LR34CA]

SENATOR KARPISEK: And the World-Herald is an editorial. It doesn't say who wrote it. [LR34CA]

PAT LOONTJER: Well, it's the editorial board. It's not an opinion piece. [LR34CA]

SENATOR KARPISEK: Well, but they don't put their name on it, so. [LR34CA]

PAT LOONTJER: They never do on the editorials. [LR34CA]

SENATOR KARPISEK: And you got my point. (Laugh) All right, thank you, Ms. Loontjer. Further opponents. Welcome. [LR34CA]

AL RISKOWSKI: Thank you. Al Riskowski. It's R-i-s-k-o-w-s-k-i, representing Nebraska Family Council and Family First. And I'll try and keep it quite short. But I agree that this bill is really not about for or against gambling. It's about a vote of the people. And I guess, if there was a theme you could put on this bill, it's "let the people not vote." We don't want the people to vote in regard to gambling. Currently, the state Legislature can debate. The state Legislature can pass legislation to expand gambling. It just has to go to the second house, and we've called the people in the state of Nebraska, often, the "second house," because we are a one-house system. And this bill is really stating we should just leave it with the state Legislature and let the people not vote. What's interesting: I found an article--this is very recent--in Kentucky, where the people there aren't blessed to have the opportunity to vote on expanded gambling as we are here in the state of Nebraska. And this is just very interesting. The article is not about whether they would vote for or against gambling. This is...it happens to be about a casino, whether they would vote it in or out. There was just a clamor to vote, and this is interesting. The headline says, 87 percent of Kentuckians want to vote on expanded gambling. And here is a quote from the governor in the article: Once again, a new poll shows Kentuckians demand an opportunity to vote on expanded gambling (sic--gaming). The call for a direct vote by the people of this state has only gotten stronger over the last few years, and we should not make our citizens wait a moment longer to have their voices heard. This is out of the Herald-Leader newspaper there in

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Kentucky. The people of Kentucky want to vote. I believe the people of Nebraska want to vote on these very important issues. It's in the media that we will have to defend our positions, currently, and I believe it's a very good system that we have here in our state. I'm not going to get--oh, we can, if you want--get into the pros and cons of gambling. That, of course, will always take place if gambling bills come forward. But this is really about the right of the people to vote and wanting to vote, and I believe the people of Nebraska want to vote. They've...they do not want to give up their opportunity to vote. Let the people vote. Thank you. [LR34CA]

SENATOR KARPISEK: Thank you, Mr. Riskowski. Any...Senator Schilz. [LR34CA]

SENATOR SCHILZ: Thank you. Thanks for coming in, sir. [LR34CA]

AL RISKOWSKI: Um-hum. [LR34CA]

SENATOR SCHILZ: Does this bill accomplish that, allowing the people to vote?
[LR34CA]

AL RISKOWSKI: This bill is about allowing the people not to vote. [LR34CA]

SENATOR SCHILZ: Really? As I read here,... [LR34CA]

AL RISKOWSKI: You're asking the people to give up their vote. [LR34CA]

SENATOR SCHILZ: Okay, we're running into the same issue that Senator Murante was having because, when you said that they're the second house--which we can debate that all day--this is a constitutional amendment that would have to be voted on by the people and have to be passed by the people. [LR34CA]

AL RISKOWSKI: Yes, and what you're voting on is to give up my right to vote. [LR34CA]

SENATOR SCHILZ: No, but if you vote for it, you don't give it up at all. You affirm that the Legislature has the power to do this. [LR34CA]

AL RISKOWSKI: But I, as a voter, can no longer vote on it. [LR34CA]

SENATOR SCHILZ: You know, that's not true. You have every opportunity to go into that voting booth and state your opinion. You said in prior testimony that the people want to vote. [LR34CA]

AL RISKOWSKI: That's correct. [LR34CA]

SENATOR SCHILZ: Okay. Do they not receive a vote on the very issue that you're

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talking...what, in your opinion, I guess...let me back up because I want to make this clear. [LR34CA]

AL RISKOWSKI: All right. [LR34CA]

SENATOR SCHILZ: In your opinion, this bill does what? [LR34CA]

AL RISKOWSKI: You're asking the people to give up their opportunity to vote on expanded gambling in this state. [LR34CA]

SENATOR SCHILZ: Okay, and how are they giving up that opportunity? [LR34CA]

AL RISKOWSKI: Because if they would vote for this bill, then they would be stating they no longer have the opportunity to vote about expanded gambling in the state. And that's exactly what--the article in Kentucky--people were asking for, was the opportunity to vote on expanded gambling. This bill would take away that opportunity to vote. [LR34CA]

SENATOR SCHILZ: Let me ask you this question then. [LR34CA]

AL RISKOWSKI: Okay. [LR34CA]

SENATOR SCHILZ: Then if we would come back or if somebody would come back with a bill that says, we're going to talk about expanded gambling, whatever that might be, and put it out there, would then your organization be in favor of allowing that to go to the ballot? [LR34CA]

AL RISKOWSKI: We have always opposed expanded gambling, and that's a different issue. [LR34CA]

SENATOR SCHILZ: No, no, no, not according to you. [LR34CA]

AL RISKOWSKI: Well, no. According to me, this is about taking away the vote of the people. You're asking them to give up their opportunity to vote on expanded gambling. [LR34CA]

SENATOR SCHILZ: No, we're giving them every opportunity to do that. If... [LR34CA]

AL RISKOWSKI: How...if they voted for this bill,... [LR34CA]

SENATOR SCHILZ: Excuse me, sir. [LR34CA]

AL RISKOWSKI: ...how would they be able to vote for... [LR34CA]

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SENATOR SCHILZ: Let me ask you the questions. [LR34CA]

AI RISKOWSKI: All right, okay. [LR34CA]

SENATOR SCHILZ: Okay. How would they be able to vote? When it goes on the November ballot, everybody that is a registered voter has the opportunity to go in and say no or to go in and say yes, correct? [LR34CA]

AL RISKOWSKI: Correct,... [LR34CA]

SENATOR SCHILZ: Okay. [LR34CA]

AL RISKOWSKI: ...on this constitutional amendment, yeah, um-hum. [LR34CA]

SENATOR SCHILZ: Absolutely. And when we talk about it, the line here that everybody is going to go to, "The Legislature may authorize and regulate any other game of chance, lottery, or gift enterprise," what does that definition to you? [LR34CA]

AL RISKOWSKI: The opportunity for the state Legislature then to vote on any type of expanded gambling is within your opportunity without the people of Nebraska having any say in it. [LR34CA]

SENATOR SCHILZ: So without the vote of the people, we could...we can't do this now, correct? [LR34CA]

AL RISKOWSKI: Correct, it must go to the vote of the people. [LR34CA]

SENATOR SCHILZ: Thank you. [LR34CA]

SENATOR KARPISEK: Thank you, Senator Schilz. Senator Murante. [LR34CA]

SENATOR MURANTE: Hi, Al. [LR34CA]

AL RISKOWSKI: Yes, hi, Senator. [LR34CA]

SENATOR MURANTE: I think you know where I'm going to...what angle I'm going to come. But I want to ask you in a slightly different way, okay? First of all, I think, to answer your question, what right would the people have if this constitutional amendment gets passed, as Senator Schumacher said, they still have the right to referendum. Whatever law the Legislature passes, the people could undo. We did that with Class I schools, so that right is still on the books. But I want to take gaming out of it and go back to what I had kind of initially said, that this is, to me, more a question of the role of

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the Legislature and the sorts of legislation that we ought to be supporting. So the question becomes...let's look at a parallel. Let's say, right now, our constitution states that the people have the right to petition initiative. It's their first right reserved. Now let's say there was a constitutional amendment to remove that right from our constitution, and the people voted for it, okay? What business is it of the Legislature to stand up and say, people, you just took a right away from yourselves. It's their constitution. They wrote it that way. They can have it that way if they want to. What...why would we get involved with that? And that's sort of what we're asking them to...what Senator Schumacher is asking them to do with this constitutional amendment. [LR34CA]

AL RISKOWSKI: I'm just stating it from a promotional point of view. You're really asking the people not to vote. [LR34CA]

SENATOR MURANTE: Okay, thank you. (Laughter) [LR34CA]

SENATOR KARPISEK: Thank you, Senator Murante. [LR34CA]

AL RISKOWSKI: (Inaudible) [LR34CA]

SENATOR KARPISEK: Any other...Senator Bloomfield. [LR34CA]

SENATOR BLOOMFIELD: I'm not so sure that we're asking them not to vote as much as we are...would be asking them to decide whether or not we should have the authority to do that. I believe we give them every opportunity to vote on it. And I think, as the bill is written, it's pretty plain that the people can see that if they vote to give us that authority, then we may use it. [LR34CA]

AL RISKOWSKI: Well, Senator, I agree fully with what you just said, that this would be a vote in giving the 49 state senators and a majority, which would simply be 25, the opportunity to decide on expanded gambling but, in doing that, they have determined not to vote on the issue but leave it with you. [LR34CA]

SENATOR BLOOMFIELD: Okay, thank you. [LR34CA]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Any other questions? Mr. Riskowski, I've got to ask. [LR34CA]

AL RISKOWSKI: Okay. [LR34CA]

SENATOR KARPISEK: I've...you're talking about a right of the people to vote on expanded gambling. I have had constitutional amendments that, I'm pretty sure, you've come in and opposed. So then didn't you block their chance to vote on expanded gambling? [LR34CA]

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AL RISKOWSKI: By simply being here and testifying, I don't know that I'm blocking anything. I'm simply giving public testimony to my opinion as to whether I oppose or support a particular piece of legislation, and that's really what I'm here about tonight. I don't know that I could...have the opportunity, unless I run for state senator, which I have no desire to do. [LR34CA]

SENATOR KARPISEK: Gee, I don't know why. (Laughter) [LR34CA]

AL RISKOWSKI: But I can civilly give my opinion as to whether I'm for or against, and it seems to...an important part of the process. And so that's really why I'm here today, giving an opinion again. [LR34CA]

SENATOR KARPISEK: And even if this were to pass, the same thing would happen. [LR34CA]

AL RISKOWSKI: Exactly. [LR34CA]

SENATOR KARPISEK: I guess my point is, if we want people to be able to vote, then we have a constitutional amendment in front of us now on the historic horse races. So if we really think people want to vote on expanded gambling, then we shouldn't hold that bill up, and put it out and let the people vote on it. [LR34CA]

AL RISKOWSKI: Well, I believe, like in this piece of legislation, if you really feel that the people no longer want any say in what will happen in the future, in regard to expanded gambling, then put this before the people. But if you feel the people of Nebraska still would like a say in it, which I believe they do, I wouldn't do that, because you're really asking the voters--and again, that's from my position--to vote not to vote. (Laugh) [LR34CA]

SENATOR KARPISEK: All right. Thank you, Mr. Riskowski. Any other questions? Seeing none, thank you for coming. [LR34CA]

AL RISKOWSKI: All right, thank you. [LR34CA]

SENATOR KARPISEK: Do we have any other opponents to the bill? [LR34CA]

SENATOR COASH: Welcome, Mr. Wimmer. [LR34CA]

DAVE WIMMER: Thank you. Chairman Karpisek, members of the committee, Dave Wimmer is my name. I'm from West Point. Thanks for the time here today. I'm a recently retired businessman and, like Chairman Karpisek, I've had an extensive career in the hot dog and sausage business. I think we, together, agree that it's hard to overestimate

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the importance of good sausage in today's world. (Laughter) I'm involved in civic-related things up in Cuming County in, kind of, my home base up there, some state-related things, namely, Gambling With the Good Life. And by the way, as it relates to our budget, Pat makes us bring our own lunch, so that tells a little bit about how we're funded. (Laugh) We're not well-funded. I'm here in opposition to LR34CA. I believe that it would lead to expansion of gambling through a process that would be much easier than it is now to expand gambling. And I come, kind of, at this from the idea that it's a serious enough issue that it probably should be somewhat difficult to expand gambling or make it tougher. I have seen all the data and the reports that have been passed around on both sides of the issue today, and I'm not going to dig into those. I'm not a constitutional scholar, by the way. But I do have a practice that I follow, and that is, when I travel, I'm kind of restless, so I move around a lot and when I'm here and there and I see a chance to go into a gambling establishment, I go in. And what I do is I order a pop or a coffee or, maybe, a beer. If you're gambling, they give you beer in some of these places, and I don't think it's because you're thirsty. But anyway, I go in and I look around. And I see...I observe a carefully crafted environment where the people who are gambling...and we call it gaming now. It's not gambling anymore. And what I'm looking for is those happy, well-dressed and, apparently, prosperous winners that I see on the marketing-related advertisements in communication for gambling. And to tell you the truth, I have yet to find very many of those happy, apparently, prosperous winners when I'm looking around in these gambling establishments. It doesn't make too much difference whether it's keno or casino or what it is. And so when I come out, you've got to kind of squint your eyes when you come out because they don't have windows in these places. And I think some of you probably know that. They don't want you looking out the window. But when I come out and I ask myself this question, the question is, will my peers, my community, my state, my kids, my grandkids, will any of them really be better off if this type of gambling was made easier or faster or more available or more convenient? And so far, my answer is a pretty resounding no. And I guess what I'd do is I'd encourage you to maybe try the same exercise sometime. We look at a lot of data, and you have to do that to make the tough, many decisions that you make. But just go in and look around. And maybe that's called thinking with your gut a little bit. And I do a lot of that; my wife says too much sometimes. But going further, with regard to the projections on tax revenue, I would say this: Even if tax projections on gambling revenue are accurate...and it's not clear that they are. And it's also not clear whether these are new tax dollars as opposed to a redistribution of revenue from other sources. And you folks have a tough job balancing your budget. But I did notice that Omaha, without gambling, came through the recession as one of the top 100 large communities, in terms of health. That was in the paper this morning. They did that without gambling. An additional observation related to taxation that I see is that, based on my observation in these gambling places, the taxes generated by gambling are extremely regressive, and by that I mean they're paid by people with lower incomes. So in conclusion, I'm going to tell you a quick story. I was on the way home--this is embellished a little bit--fourth grade, had a rough day in the fourth grade. I had my report card, took it

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home, tossed it down on the dinner table. That night, Dad took one look at it: four Fs and a D. He said, you've got some explaining to do. I thought fast and I says, Dad, the only thing I can come up with, looking at four Fs and a D, is that I concentrated too hard on one subject. (Laughter) My point of this story is that I think, sometimes, we may be tempted to concentrate a little bit too much on some murky financial projections or on some of the other promises of expanded gambling. And I would respectfully ask this group to think critically about the downside because there is a downside. And I further thank you for your time today and thank you for what you do here. This is hard work. Any questions? [LR34CA]

SENATOR COASH: Thank you, Mr. Wimmer. We'll see if we have any questions. [LR34CA]

SENATOR SCHILZ: Real quick. [LR34CA]

SENATOR COASH: Senator Schilz has a question. [LR34CA]

SENATOR SCHILZ: And it's more if you can make a little bit of a joke, I can too. As you talked about, you know, you see all the advertisements for everything and how everything looks great and all this and all that. Couldn't the same be said of sausage and hot dogs? (Laughter) That's it. I'm sorry. (Laughter) [LR34CA]

SENATOR COASH: Thank you, Senator Schilz. [LR34CA]

DAVE WIMMER: You can come up and stand around at our place too. I'll extend that offer right now. [LR34CA]

SENATOR SCHILZ: There you go. I appreciate it, sir. Thank you very much. [LR34CA]

DAVE WIMMER: Anything else? [LR34CA]

SENATOR COASH: Any other questions for Mr. Wimmer? Seeing none, thanks for coming, sitting there all day. [LR34CA]

DAVE WIMMER: Thanks. [LR34CA]

SENATOR COASH: We'll take the next testifier. Welcome back, Ms. Fairchild. [LR34CA]

LORETTA FAIRCHILD: (Exhibit 17) Thank you. These people had to go? Thank you, committee members, for your attention. My name is Loretta Fairchild, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d. I am here, because of my Ph.D. in economics, to urge you to consider the economic impact of this legislation on the state of Nebraska as a whole and not

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proceed with LR34CA. First, the proposed ballot language is highly misleading because it doesn't clarify that the purpose is to remove from Nebraska's constitution the prohibition against Class III gambling, the casino-type gambling. Voters need to know that. One main argument that underlies the desire to bring casino-type gambling into Nebraska is the following, which contains a major error. The argument goes like this: Gambling is just like any other form of recreation--bowling, movies--and, as an adult in a free-enterprise system, I should be allowed to freely choose where I want to spend my money, which feels logical. But it isn't. The logical error enters because gambling is not like any other product but, instead, is one among a very small group of products that needs special handling, in other words, government regulation. Other products also in this small category are items that produce pollution of our air or water, like the chemical company dumping its waste into the nearby river because it lowers its costs, but also kills the fish in the recreation area downstream. The pollution generated by the gambling industry is the addiction problem, which is also true for tobacco and alcohol, other products with special regulatory status. All of the products in this special category aren't left just to the free market because the effects spread out to third parties--in other words, people who aren't the buyer or the seller, which is what the market can take care of just fine--and they cause serious problems in the state as a whole that markets alone just can't handle. I would appreciate being able to clarify this point more in appointments with each of you in the near future, but I'm waiting on that because of time constraints. But the important point for this bill is the freedom argument does not exist. Two other popular arguments are also largely myths. One is keeping the money in Nebraska and, B, this will create jobs. To understand these issues we need to look again at the extra benefits and the extra cost of casino-type gambling. And this is the handout that you have just received, the one page, I think. If you look at the second list, the benefits, you see any new jobs created. It won't be huge. There will be some. And you look at the list of costs at the top and you see the job losses in other businesses across Nebraska who do lose sales because the money dropped into this new gambling comes largely out of Nebraska pockets, it might have been saved or it might have been spent in other Nebraska recreational or other businesses. But each dollar that belongs to a Nebraska family only gets to be spent once. The casino-type gambling industry has come to be referred to by the three Ps: It's pervasive, pernicious, and predatory. Let's look at predatory. Because they know exactly how much each gambler is betting and losing, they have highly paid people on staff whose sole job is to sweet-talk anyone who has stopped coming in, after significant losses, into coming back. They offer great deals and tantalizing perks to people who have demonstrated their vulnerability to these pitches. What would you think of a liquor store owner or a bar owner who kept track of personal information on recovering alcoholics in the region and offered them sweet deals to have just one more little drink, on us? Reminding voters of the taxes that can be raised from gamblers is also based on false logic. State government is supposed to create a total tax system that follows a list of good economic principles. High on that list are equity, fairness, and efficiency in how resources get moved around by the tax. Nowhere does it say, tax the people with addictions and use that money to help other policy priorities. In

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closing, since there are, in fact, no good economic reasons to support removing the ban on Class III gambling, if you vote to move this measure forward, you are saying, in effect, I think it's just fine to make a small group of people, who are yet nameless, quite rich and leave Nebraska holding the bag. Please don't waste the Legislature's time with this measure. Thank you. And now I hope you will ask questions, like, why allowing this new type of gambling does constitute a subsidy and why the monopoly power over the new casino-type gambling that the new owners are implicitly expecting likely won't last. Thank you. [LR34CA]

SENATOR COASH: All right, thank you, Ms. Fairchild. Senator Johnson. [LR34CA]

SENATOR JOHNSON: Thank you, Chair or Vice Chair. We've talked about the two problems, one gambling and gambling addiction, low-income families, all of that. The other that we've addressed or tried to address is the loss of...or the money that goes over to Iowa, basically, maybe, a perception of loss of funds for Nebraska to operate on. So economists, I know, have abilities in talking about results, talking about trends, pointing out the problems, and whatnot. I have a little more faith in you than that, so I'm going to ask you, from your perspective, how do we solve the first problem of addiction? And is it worth the state's time to try and recoup some of that money, or is that just way too big a risk? [LR34CA]

LORETTA FAIRCHILD: You're raising very valid and important issues. I think we should focus on addiction and trying to help. What happens in nations that have gambling--the ones I'm most familiar with are Australia and Canada--again, because it's already been mentioned, it is extremely difficult to roll these things back once they happen. South Dakota's example was there's...some of the analysis points to the fact that state governments become addicted to those taxes too. And that makes it extremely difficult to get. And the South Dakota vote was actually very, very split. People did want to get rid of it, but they didn't want to have to pay taxes. And it's very hard to see. All these economic issues are so subtle. This is why "just let people vote on this," that list doesn't fit well on a bumper sticker. But this is economic reality and it's extremely difficult to explain the...oh, I want to get back to you. What do we do about addiction? These two countries have massive programs focused on what is called responsible gambling. And they do a lot of different things to try to help people who have an addiction problem to stay out of casinos, for example, to try to keep teenagers out of casinos. They're in there all the time, even though, technically, they're not allowed to. So this requires a massive effort, and it's expensive on the part of the state. It does need to be worked on, and I would like to see Nebraska do some of that sort of thing. Economists are terrible prognosticators. We can't do anything except look at past data. We cannot look at the future, and that's in economic questions in general. We need a study on addiction rates, as came up in some other questions. We need a study on addiction rates in Nebraska. But these other states don't pay for those studies either. It's expensive to do a good study, and so the only data is, like what you have seen that comes out of the poorly

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funded centers that try to help with addictions. They have some data, but it really does not get to the heart of the matter. So yes, the Legislature should fund a serious study before they pass this. What was the other half of the question? [LR34CA]

SENATOR JOHNSON: Well, just looking at the economic impact and, you know, I mean, if you could eliminate the addiction and only those rich people would gamble and get some out of them instead of doing it through tax code, then we'd get our money back, but... [LR34CA]

LORETTA FAIRCHILD: Well, the standard joke about this is that the people who...well, again, there are two groups of people who gamble. People who just enjoy it--they go in, and they spend their limit, it's a social occasion, they've had a good time, and they go home again--those people will not generate very much in the way of profits to the industry. There will be profits, but there won't be very much. Frankly, we need to get information out of this industry about where it's coming...where their profits are coming from. Some studies have suggested that somewhere between 40 and 80 percent of profits come from that small group of addicted people, which is why they work so hard to keep them coming back in. I still lost it again. [LR34CA]

SENATOR JOHNSON: That's fine. I just... [LR34CA]

LORETTA FAIRCHILD: The notion of what...and that this notion of trying to bring the gambling back...well, my basic point about we're losing money outside so we might as well bring it in. Two "bads" don't make a good. It just makes a worse mess. There's good data that shows...well, again, remember that...I have two things I want to do here. Sorry, I keep losing it. Location, as has been mentioned earlier, plays a huge impact on how many people do drive. A circle within 50 miles makes a difference. So you put casinos in western Nebraska. You're increasing the pool of people who are within 50 miles, and they are the people who will be primarily doing this. The ideal world for a casino is a place where everybody who comes in is tourists and they leave their money, and then they go home and they take their problems home. That's perfect. However, that isn't what happens, and most of the money that's going into the local casinos is local people. Now that's not to say somebody's cousin doesn't come through. But the other piece of information that I would point to about what are the options is, simply, that when you hear the pitch that says we should be doing this--and these pitches have been made since the early 1990s as casinos have moved across the nation--there's never an example of a success story. On these same promises that had been made over and over and over, why isn't there one city, one county, one state in all the ones that have this that you can point to and say, hey, they've solved their tax problems? Because that's the way this is always brought forth. And job creation, there is good documentation about decline in business activity in the area. One example is restaurants in Omaha. There was a study done about businesses in Omaha right after the casinos opened in Council Bluffs. And yes, food is a loss leader. Restaurants in

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Omaha did lose business. They complained verily, okay? Were they required to show their tax receipts? I don't know. But the point is, in all these states that have it, you cannot point to this shining example. If you could, it would be in the marketing pitch. These are promises and they aren't realized,... [LR34CA]

SENATOR COASH: Okay. [LR34CA]

LORETTA FAIRCHILD: ...because that list is disproportionate. [LR34CA]

SENATOR JOHNSON: Thank you. [LR34CA]

LORETTA FAIRCHILD: And that is not my list. [LR34CA]

SENATOR COASH: Thank you, Ms... [LR34CA]

LORETTA FAIRCHILD: It was put together by 40 economists, and we don't agree on much of anything. [LR34CA]

SENATOR JOHNSON: Thank you. [LR34CA]

SENATOR COASH: Thank you, Ms. Fairchild. Any other questions? I don't see any. Thank you for coming down today. Are there any other testifiers in opposition? Is anyone here in a neutral capacity? Seeing none, Senator Schumacher, you are welcome to wrap us up. [LR34CA]

SENATOR SCHUMACHER: Thank you, Senator Coash, members of the committee. There are certain things that appear to be uncontroverted. One, somewhere in the neighborhood of \$400 million a year leaves the state, taking with it an economic factor of 1.75. That's a lot of money because that's...gets you over half a billion dollars a year. At any rate, that represents what probably could be captured yet in Nebraska, even though it's less than the 2004 levels, about \$80 million a year. Whatever problems there are associated with gaming are here. Sixty-some percent of our population lays within that 50-60 mile range of a casino, over 90 percent within 150 miles of a casino. Whatever problems are associated with it are here, with none of the revenue to treat the problems or do other things with that money. Those are uncontroverted. What is also uncontroverted is that we can't do anything about it, nothing. The people can't do a petition because we've made the petition process unbelievably hard. The monkey is on our back to ask the people, do you want the Legislature to have authority to do something about it? We've heard some testimony that, well, what you should do is you should have to go to them. Well, should we have video keno and put that proposition before them? Should we have historic horse racing, put that proposition before them? Should we have a casino in Omaha, that proposition before them, knowing the outcome of those kind of propositions? The have-nots vote no. It gets 37-38 percent of the vote.

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Senator Lautenbaugh's suggestion for a horse racing amendment, I heard it as an endorsement. That should go out to the public to vote because it's a narrow little thing. The downside of that is it'll get 39 percent of the vote because that's what limited propositions get in Nebraska, 39 percent of the vote. This is about government and getting rid of the paralysis. We can't respond to a pilfering of \$400 million a year of our money, can't respond, hobbled by 1867 constitutional provision, by people who would roll over in their graves if they saw what was being done to us. But it is and we have a responsibility to do something about it. And so let's ask the people, do you want this restriction removed so that we can rationally deal with it like we deal with every other subject in the state of Nebraska? And if the people say yes, then we have a very difficult task of dealing with that situation and making the rules and the regulations and the divisions of money. Speaking of divisions of money, we have the two areas, education and healthcare, in the bill. That is very, very similar in language to the two areas in the state lottery bill when it was adopted and put into the constitution. In fact, it's less restrictive because, in this bill, they are the default positions rather than the mandatory positions. The mandatory ones in the state lottery were Environmental Trust and education. So there's precedent for this is the way to do a gaming amendment. Regardless of all that, it's time to remove the paralysis. It's time, at least, for the people to have the choice of whether the paralysis should be removed. No government of good repute lets itself be bled like we are being bled in the state of paralysis we are now. With that, I'd ask the committee to take this to the floor so we can talk about it there, so we can get the proper state attention and state discussion going, and let the chips fall where they may. [LR34CA]

SENATOR COASH: Thank you, Senator Schumacher. Thanks for a good hearing today. [LR34CA]

SENATOR SCHUMACHER: Thank you. [LR34CA]

SENATOR COASH: That will close our hearings for today. Everybody, except if you're from Wilber, has to go home. (Laugh) (See also Exhibit 21.) [LR34CA]