

department granting or denying a license application, that particular appeal should be made...should follow in accordance with the Administrative Procedures Act, which provide that an appeal is based upon the record rather than de novo. And I think that what Senator Dierks is really attempting to get at is the question of the record that will be established at that particular area in which the hearing will be heard by an administrative law judge or an administrative hearing judge designated by that particular department, and there is some very serious problems that we have in the State of Nebraska in regard to our Administrative Procedures Act. Now let me give you a little background. When you make an appeal to the federal government, they have a separate body of judges, administrative law judges, that hear that particular case, and those judges are impartial judges. They have no contact with a particular department that they are hearing the appeal from. But you get into situations with an appeal from an administrative agency, that person that is representing the department, we will just call him Joe Smith, in his office right next to him is a guy named John Jones, and those two sit together, they have lunch together, they talk every day together, they probably go out and have a beer after work together, and they probably talk about the cases because there is no legal reason why they should not. Ex parte communications between those two people is not prohibited by state law. Now we have an appeal that takes place or we have a decision that is made by this particular agency. That is not an impartial judge that is sitting and hearing this particular decision before that particular agency. That person is not impartial to my belief. Now there were a number of bills that were brought before the Government Committee that dealt with this particular issue. One was brought in behalf of the Nebraska Bar Association that said that you cannot have ex parte communications between these two individuals, the one representing the department and the one representing...that is acting as the hearing judge. Ex parte communications means they can't have conversations outside that courtroom or that hearing. So that if constituents of "Cap" Dierks go up before them, that judge or that hearing officer cannot have been carrying on conversations with the representatives of that particular department. We have some very serious problems with our statutes, and once that record is established, once evidence has been presented, the Supreme Court cannot look at evidence outside of the evidence that has been presented at that particular hearing. There is some very serious problems with it. I think that the idea of a direct appeal to the Supreme