

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

General Affairs Committee
February 26, 2007

[LB345 LB544 LR11CA]

The Committee on General Affairs met at 1:30 p.m. on February 26, 2007 in Room 1510 of the State Capitol, Lincoln, Nebraska for the purpose of conducting a public hearing on LB345, LR11CA, LB544 and gubernatorial appointments. Senators present: Vickie McDonald, Chairperson; Russ Karpisek, Vice Chairperson; Merton "Cap" Dierks; Annette Dubas; Philip Erdman; Mike Friend; Ray Janssen; and Don Preister. Senators absent: None. [LB345]

SENATOR McDONALD: ...Vickie McDonald, chairman of the committee. We have several members present. We have Senator Preister on our left. We have Senator Dierks, Senator Karpisek. My committee staff is Laurie Lage. She's our legal counsel. And to my left is our committee clerk, Nicole Trexel. Our page today is Marcus Bish from Ord. And today we're going to be hearing three gubernatorial appointments and then three legislative bills: LB345, LR11CA, and LB544. And today's hearings are going to be just a little bit different than what you're used to, because we're going to be hearing a bill that would change the state song. I thought it would be appropriate to actually listen to the song. In order to be fair, we will hear the current state song. The songs will be heard as testimony and the rest of the hearing will be run as usual. There will be no response from the audience to either song so keep your thoughts and your applause to yourself. And if you have questions, we will ask to ask you question if you have questions. After the bill openings we will first hear testimony in support. If you support the bill then you will come forward. And if you are in opposition then you will have your chance to speak. And then we have neutral testimony following that. And if you're planning to testify in any capacity, please fill out the reports that are at each door and then bring them forward with you as you come and give those to our page. When you come forward, please say your name and then spell your name so we can put it in the record. If you have handouts, please make sure that you have at least 10 copies for the committee. If not, we can copy those, but it doesn't give us the opportunity to get those immediately. The other thing is speak into the microphone and, of course, please disconnect or put on vibrate any telephones that you have or anything that might cause noise. Please understand that there will be no photography in here and if you want to discuss something amongst yourselves you might have to take it out to the hall. But otherwise, we're ready to go. First, we're going to do the appointments. We have three gubernatorial appointments and the first one is Sandra Schroeder with the Nebraska Arts Council. Is Sandra here? Please come forward. [CONFIRMATION]

SANDRA SCHROEDER: Sandra Schroeder [CONFIRMATION]

SENATOR McDONALD: Wait just a second until you sit down, because we're needing to tape this. [CONFIRMATION]

SANDRA SCHROEDER: All right. S-c-h-r-o-e-d-e-r, S-a-n-d-r-a. [CONFIRMATION]

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

General Affairs Committee
February 26, 2007

SENATOR McDONALD: Okay. And Sandra, can you tell us a little bit about yourself?
[CONFIRMATION]

SANDRA SCHROEDER: Well, I live in Norfolk, Nebraska. It's a two-hour drive north of here. And my husband is LaVern and he's a land surveyor in Norfolk, Nebraska. I have three sons. One is in Minneapolis who is a civil engineer. One is in Omaha, Nebraska that's a gastroenterologist and one in Norfolk who is a dentist. So you can see I believe in education and definitely in the arts. [CONFIRMATION]

SENATOR McDONALD: Are you an appointment or a reappointment?
[CONFIRMATION]

SANDRA SCHROEDER: I am an appointment. [CONFIRMATION]

SENATOR McDONALD: So this is your first time? [CONFIRMATION]

SANDRA SCHROEDER: Yes. [CONFIRMATION]

SENATOR McDONALD: Any questions for Sandra? Yes, we have Senator Preister.
[CONFIRMATION]

SENATOR PREISTER: Sandra, I appreciate your willingness to serve. Are there things you would like to accomplish or particular areas of interest that you have?
[CONFIRMATION]

SANDRA SCHROEDER: Just to have Nebraska seen in a different light than we're seeing. I've been to New York galleries, and Chicago, and Houston, and all over the United States. And whenever you say Nebraska you get not the kind of response that I'd like to see. And I just want to see that everyone in Nebraska gets a chance to show the best of themselves. [CONFIRMATION]

SENATOR PREISTER: Promotion of our local talent... [CONFIRMATION]

SANDRA SCHROEDER: Yes, yes. Just to... [CONFIRMATION]

SENATOR PREISTER: ...and the enhancement of our image. [CONFIRMATION]

SANDRA SCHROEDER: ...have everyone have a chance to really show off their talents. [CONFIRMATION]

SENATOR PREISTER: Okay. And the travel to the meetings and... [CONFIRMATION]

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

General Affairs Committee
February 26, 2007

SANDRA SCHROEDER: Oh, that's not a problem. As I said, I live in Norfolk. Everywhere we go, I think in hours of not how far, but two hours to Omaha, two and a half to Lincoln, two hours to Sioux Falls. You know, it's something we're all used to. [CONFIRMATION]

SENATOR PREISTER: And when you said that, two hours earlier I wasn't sure how to interpret it. So you're additional... [CONFIRMATION]

SANDRA SCHROEDER: Oh no. That's something that's a part of our lives. [CONFIRMATION]

SENATOR PREISTER: Okay. [CONFIRMATION]

SANDRA SCHROEDER: We live in Nebraska. You know, sometimes we go clear out to western Nebraska with my husband for a surveyors meeting and we don't think anything of it. [CONFIRMATION]

SENATOR PREISTER: Thank you. [CONFIRMATION]

SENATOR McDONALD: Senator Janssen, did you have a question. [CONFIRMATION]

SENATOR JANSSEN: No, only to say that, you know, I'm sure you know former Senator Gene Tyson quite well. [CONFIRMATION]

SANDRA SCHROEDER: Yes, very well. [CONFIRMATION]

SENATOR JANSSEN: And you say Norfolk the same way he does. [CONFIRMATION]

SANDRA SCHROEDER: Yes. [CONFIRMATION]

SENATOR JANSSEN: I appreciate that. Thank you. This would be your first time on the Arts Council. Is that correct? [CONFIRMATION]

SANDRA SCHROEDER: Yes. [CONFIRMATION]

SENATOR JANSSEN: Yeah. I think that the Arts Council is a very important part of our culture in this state and I'm very happy to see someone of your calibre want to serve and partake in the council. I think that's great. Appreciate your offering yourself for this job. [CONFIRMATION]

SANDRA SCHROEDER: Thank you. Thank you. [CONFIRMATION]

SENATOR McDONALD: Do you have any talents yourself that you would like to tell us

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

General Affairs Committee
February 26, 2007

about? [CONFIRMATION]

SANDRA SCHROEDER: Oh, I was a fine arts major. Specifically, I like oils the most and have been interior decorating. As I was telling a friend of mine, I used to do a lot of different things, but mainly the oil paintings is where I concentrated on, but I'm interested in preservation of architecture. That's one of my great loves and I view that as part of art, because to preserve--whether it's an oil painting or a building or grandma's wedding dress--is important to me. [CONFIRMATION]

SENATOR McDONALD: Thank you. Any other questions for Sandra? Senator Dierks. [CONFIRMATION]

SENATOR DIERKS: Looks like, according to your application, you might be a constituent of mine during the summertime. You have a cabin up in Knox County? [CONFIRMATION]

SANDRA SCHROEDER: Oh, yes. Yes. [CONFIRMATION]

SENATOR DIERKS: That's part of District 40. [CONFIRMATION]

SANDRA SCHROEDER: Yes. [CONFIRMATION]

SENATOR DIERKS: I'm not sure whether to welcome you or you to welcome me, but we... [CONFIRMATION]

SANDRA SCHROEDER: Oh, we have had that for about 35 years or more. []

SENATOR DIERKS: Well, that ought to be an excellent place to do some artwork, shouldn't it? [CONFIRMATION]

SANDRA SCHROEDER: Oh, it is. [CONFIRMATION]

SENATOR DIERKS: Landscape would be great out there. [CONFIRMATION]

SANDRA SCHROEDER: It's beautiful. Over the years we've thought oh, we don't go as often as we should, but every time we round that corner and go up there and see those bluffs and those pines... [CONFIRMATION]

SENATOR DIERKS: Yup, beautiful. [CONFIRMATION]

SANDRA SCHROEDER: It's a keeper. [CONFIRMATION]

SENATOR DIERKS: Yup, thank you. [CONFIRMATION]

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

General Affairs Committee
February 26, 2007

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

SANDRA SCHROEDER: Thank you. Thank you. [CONFIRMATION]

SENATOR McDONALD: Our next appointment is Joanne Shephard from Nebraska Arts Council. Is Joanne here? Welcome, Joanne. Am I saying that correctly? Is it Joanne?
[CONFIRMATION]

JOANNE SHEPHARD: Yes. [CONFIRMATION]

SENATOR McDONALD: Any questions for Joanne? Yes, Senator Friend.
[CONFIRMATION]

SENATOR FRIEND: Hi Joanne. I think it's impressive. Valentine's a little ways away. I mean, I think what we've run into over the years and during these appointment hearings is a feeling where--and especially when you get out to the floor--that, you know, these things are just going to end up being rubber stamped. I mean, I think it's impressive that you would, as it always is when somebody comes from that distance, there must be some conviction here. I guess I was just maybe seeking some comment on that. I mean, this would appear to be pretty important to you. [CONFIRMATION]

JOANNE SHEPHARD: Yes, it's very important to me. [CONFIRMATION]

SENATOR FRIEND: And you've been on the board for... [CONFIRMATION]

JOANNE SHEPHARD: No, this would be on the council, a new appointment.
[CONFIRMATION]

SENATOR FRIEND: Okay, sorry. But it's important to you for... [CONFIRMATION]

JOANNE SHEPHARD: I've served on Museum of Nebraska Art board. Perhaps that's what you were... [CONFIRMATION]

SENATOR FRIEND: But you're obviously anxious, looking forward to this. I mean...
[CONFIRMATION]

SANDRA SHEPHARD: Correct. I am. [CONFIRMATION]

SENATOR FRIEND: Thanks for coming in. [CONFIRMATION]

SENATOR McDONALD: Senator Dierks. [CONFIRMATION]

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

General Affairs Committee
February 26, 2007

SENATOR DIERKS: Joanne, I noticed by your application that you have an association with Curian Capital, LLC. What is that? [CONFIRMATION]

JOANNE SHEPHARD: Well, I'm an investor. [CONFIRMATION]

SENATOR DIERKS: And Curian is just an investment company? [CONFIRMATION]

JOANNE SHEPHARD: Well, it's the management company for a investment I have. [CONFIRMATION]

SENATOR DIERKS: I see. I just hadn't heard of it before. Thank you. [CONFIRMATION]

JOANNE SHEPHARD: Um-hum. [CONFIRMATION]

SENATOR McDONALD: Can you tell us a little bit about yourself, Joanne? [CONFIRMATION]

JOANNE SHEPHARD: Well, my profession is a banker. I'm the president, CEO, and chairman of the board of the First National Bank of Valentine. I'm married to Don Shephard and we have two sons. My oldest son is a student at the University of Nebraska-Lincoln and our youngest son is a special needs child that lives with us in Valentine. I have a considerable interest in the arts, performing arts, fine arts, and the humanities in general. And I feel a calling to represent the rural area of Nebraska with my talents and skills. [CONFIRMATION]

SENATOR McDONALD: And what would those talents be? Do you have any talents? Art talents? [CONFIRMATION]

JOANNE SHEPHARD: No, I do not. I am a appreciator of the arts and I would like to see the humanities experienced and realized by as many people in Nebraska as possible. And I think, perhaps, it's been a bit short in the more rural areas of Nebraska, the appreciation of the arts. And I feel that I can lend to bringing the arts and humanities to rural Nebraska. [CONFIRMATION]

SENATOR McDONALD: Any other questions? Yes, Senator Karpisek. [CONFIRMATION]

SENATOR KARPISEK: Thank you, Madam Chair. I just want to say thank you from a rural community to come in and do this, because everyday on the floor we have...you know, I don't want to say rural is dying. It's tough out there and it's just wonderful to have people like you step up and come into this to prove that we're not dead and we're

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

General Affairs Committee
February 26, 2007

going to keep fighting. So I just want to say thank you. [CONFIRMATION]

JOANNE SHEPHARD: You're welcome. Thank you. [CONFIRMATION]

SENATOR McDONALD: Thank you for your willingness to serve. [CONFIRMATION]

JOANNE SHEPHARD: Thank you. [CONFIRMATION]

SENATOR McDONALD: And coming all the way from Valentine. Our last appointment, Steven Bloch, the Nebraska Arts Council. You are a representative. Okay, Senator Ashford. Am I saying that name right? [CONFIRMATION]

SENATOR ASHFORD: Ashford? Yes. I'm not here on the state song, but... [CONFIRMATION]

SENATOR McDONALD: Oh, okay. [CONFIRMATION]

SENATOR KARPISEK: Could sing anyway. (Laughter) [CONFIRMATION]

SENATOR ASHFORD: Thank you, members. Senator McDonald and members of the committee. My name is Brad Ashford, A-s-h-f-o-r-d, District 20. I'm here on behalf of my friend, Steve Bloch--it's B-l-o-c-h is the spelling--as an appointee to the Nebraska Arts Council. I've known Steve since 1972, I guess, when I started practicing law with him in Omaha and his firm. He has been a practicing attorney in Omaha for a number of years. Most of those years with the Fraser Stryker Law Firm in Omaha. He and his wife, Carol, have been involved in a number of civic areas throughout both of their careers and have given the community a tremendous amount of their time and effort. I was glad to see that Steve was nominated for this position. I know that he will fulfill the obligations with fervor and will do an excellent job for the state of Nebraska and I would certainly recommend that he be appointed. [CONFIRMATION]

SENATOR McDONALD: Is this a reappointment for him or is this the initial appointment? [CONFIRMATION]

SENATOR ASHFORD: I think this is initial, isn't it? This is a reappointment. (Laughter) Then he'll continue to serve the state of Nebraska. No, he's a good guy and does a good job. [CONFIRMATION]

SENATOR McDONALD: Okay. It's good to see you on the other side of the table. [CONFIRMATION]

SENATOR ASHFORD: Yeah, it's great to be here. [CONFIRMATION]

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

General Affairs Committee
February 26, 2007

SENATOR McDONALD: Any questions? Yeah, Senator Preister. [CONFIRMATION]

SENATOR PREISTER: Senator Ashford, nice to have you with us today.
[CONFIRMATION]

SENATOR ASHFORD: Well, thank you. [CONFIRMATION]

SENATOR PREISTER: And my question, normally it is helpful to the committees to have the person who is being potentially appointed appear before us. If you said it, I missed it, but why is Steven not able to be here in person himself today?
[CONFIRMATION]

SENATOR ASHFORD: Well, in all seriousness, if you don't appoint him you can appoint me since I'm...(Laughter) I believe Steve...he called me and indicated that he was called away and could not be here and asked if I would come on his behalf. It's very odd that he wouldn't be here if he could be here, so I just came over at the last minute to appear on his behalf. But he would be here unless it was something significant. He called and said he absolutely could not be here. And I understand the point. It's a good point, but I think... [CONFIRMATION]

SENATOR PREISTER: I appreciate you appearing on his behalf. [CONFIRMATION]

SENATOR ASHFORD: Thank you. [CONFIRMATION]

SENATOR PREISTER: I can certainly understand things coming up. In the past, we've had people who have been nominated for an appointment who didn't even want to serve, and so if they're not wanting to serve we don't want to put somebody in that position, but if he is still interested and you're reflecting that to us but something came up, then that helps us to understand. [CONFIRMATION]

SENATOR ASHFORD: Right. And he did call and I know he wants to serve and continue to serve. But I appreciate the question, Senator. [CONFIRMATION]

SENATOR McDONALD: Any other questions? And we appreciate you showing up to show your support. [CONFIRMATION]

SENATOR ASHFORD: Thank you, Senator McDonald. [CONFIRMATION]

SENATOR McDONALD: Thank you. That closes...did we have other questions?
[CONFIRMATION]

SENATOR KARPISEK: No, it's just thumbs up. [CONFIRMATION]

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

General Affairs Committee
February 26, 2007

SENATOR McDONALD: Oh, okay, that closes our appointments. We will now move to our legislative bills. We have LB345 by Senator Burling. Welcome. [CONFIRMATION]

SENATOR BURLING: Good afternoon, Senator McDonald, members of the General Affairs Committee. Thank you for welcoming me this afternoon to your committee. I'm Carroll Burling, B-u-r-l-i-n-g, representing District 33 in the Legislature, and I'm here today to introduce to the committee LB345. LB345 is probably one of the shortest bills you've seen this year, but as you all know it has created a great deal of interest and that is good. Forty years ago when Nebraska was 100 years old, a bill was introduced in the Legislature and it was passed to designate "Beautiful Nebraska" as our state song. "Beautiful Nebraska" is a wonderful song and it describes our state very well and has captured the hearts of many people. More recently Ginger ten Bensel has written the lyrics and music of a song entitled "I Love Nebraska." This song has also captured the hearts of many people who have heard it. This bill would simply change the state song from "Beautiful Nebraska" to "I Love Nebraska." Purpose of this bill is after 40 years, to call attention to the fact that we have a state song, what that state song is, and that there is a new state song available that has the same qualities and characteristics that we look for in considering a state song. Many people today know that we have a state song and know what that state song is that did not know before the introduction of this bill, and so this has already accomplished a great deal of interest in the state song and knowledge of that state song and has accomplished that much so far. But what this bill does today is provide a forum for discussion of differing view points and an avenue of change if we want to do that. Thank you for your attention. Are there any questions? [LB345]

SENATOR McDONALD: Thank you, Senator Burling. Senator Dierks. [LB345]

SENATOR DIERKS: Senator Burling, I wonder if I could get you to trade your fiscal note for this bill with one of mine? (Laughter) [LB345]

SENATOR BURLING: Well, we could try that. [LB345]

SENATOR DIERKS: It's zero. [LB345]

SENATOR BURLING: Yes. [LB345]

SENATOR DIERKS: Yeah, thank you. [LB345]

SENATOR McDONALD: Senator Janssen. [LB345]

SENATOR JANSSEN: Senator Burling, could you sing that song for us? (Laughter) [LB345]

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

General Affairs Committee
February 26, 2007

SENATOR BURLING: I could, but it would probably kill the bill. (Laughter) [LB345]

SENATOR JANSSEN: I'm just kidding. You know, we've been used to "Beautiful Nebraska" for a good long time now and I'm going to be probably pretty hard to convince the other way. I enjoy that song so much, but you know, being in our position we have to look at change and you never want to form an opinion until you've heard it so I would like to hear that song today. Are we going to have that opportunity? [LB345]

SENATOR BURLING: I understand you are. Yes. [LB345]

SENATOR JANSSEN: Good. Thank you. [LB345]

SENATOR BURLING: And thank you for considering both of them. [LB345]

SENATOR JANSSEN: Okay. [LB345]

SENATOR McDONALD: Senator Preister. [LB345]

SENATOR PREISTER: Senator Burling, you speak of getting people to identify the song and understand the song even though that it exists. And just to give you some feedback, I got an e-mail from Monroe Middle School in Omaha and they made it a project in their class. And so they have heard both songs and as the students and their teachers or music teachers, we were listening to Arts Council nominees here today, as they were listening to the song they thought about what they wanted to do and then the students took a vote. And their vote was 134 to retain "Beautiful Nebraska" and 39 to change the song. So you've had some of that purpose in educating people, helping some of those students to understand it as a civics lesson. And so I think your purpose in that regard is being implemented. [LB345]

SENATOR BURLING: Thank you, Senator Preister, and getting people involved and creating a higher level of interest in our state song. That was part of the purpose of it and the rest of it is up to this committee after the hearing today. [LB345]

SENATOR McDONALD: Any other questions? Well, because of that interest, we have had others come forward with their idea what should be the state song. So not only we are looking at the Ginger ten Bensel song, but other songs. And I thought well, maybe we could do a medley. We could do the fight song, your song, Nebraska song, and we could have them all mixed into one and then make everybody happy. What do you think about that? [LB345]

SENATOR BURLING: Well, it would have a chorus then. That's a possibility, I guess. [LB345]

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

General Affairs Committee
February 26, 2007

SENATOR McDONALD: Just a thought. Just a thought. [LB345]

SENATOR BURLING: Yes. [LB345]

SENATOR McDONALD: Anyway, any other questions? And I see none and thank you. [LB345]

SENATOR BURLING: Thank you very much. [LB345]

SENATOR McDONALD: Will you be around to close? [LB345]

SENATOR BURLING: Probably not. I'll probably waive closing unless my staff thinks I should come back and they'll come and get me and bring me back. [LB345]

SENATOR McDONALD: Okay. All right. Thank you, Senator. [LB345]

SENATOR BURLING: If I'm not here that means I'll waive. [LB345]

SENATOR McDONALD: All right. Senator Burling, thank you. [LB345]

SENATOR BURLING: Thank you. [LB345]

SENATOR McDONALD: Our first testifier in support? [LB345]

GINGER TEN BENSEL: My name is... [LB345]

SENATOR McDONALD: Welcome. [LB345]

GINGER TEN BENSEL: (Exhibit 1) Hi, nice to see you. My name is Ginger ten Bensel and I'm the writer of the song "I Love Nebraska" and I just want to thank this committee so much for this opportunity, and Senator Vickie McDonald for this opportunity today to come to you and just talk to you about the song "I Love Nebraska." I was blessed enough to grow up in the state of Nebraska. And as a little girl I always wrote so many songs and I'd write a lot of different songs, maybe about my horse or whatever my favorite thing was. And my music teachers always encouraged me that I could go on and do whatever I wanted to do in music. And they encouraged me to achieve higher education in the music business and that's what I did with 20 years of opera and classical training. I went onto college and minored in music and have done musicals all over the United States. And had the opportunity to even perform at the Mexico Symphony Orchestra in Mexico City. And so it's an honor to be here to even talk to you about this song. I went onto Tennessee where I honed in on my music skills and learned how to really become a professional songwriters and wrote with some of the greatest songwriters in the music business. And I got the opportunity to come back

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

General Affairs Committee
February 26, 2007

home to Nebraska and when I got that chance I was so grateful, because I had missed home so much. And I went out on my horse and I was thinking about all the wonderful things about this state. And right at that moment I could hear the sound of a meadowlark singing and they were hopping from bush to bush and I was just thinking how magnificent it was. And I thought what a beautiful part of a song to have our state bird involved in a song. And so anyway, I started writing the song. And then in the distance I could hear the sound of a train coming from 10 miles away and it inspired me to continue to write the song. And it was truly an inspiration. And you know, I wrote the song just because I love Nebraska and it was just my way of expressing how much I love this state. And then what I did, as I was writing the song on my horse--I know it's kind of hard to believe you can write a song on a horse, but I did--I was just a couple miles from where my great-grandfather homesteaded and came from Germany and lived in a dugout. And that pioneer spirit is in my family and is something that I pioneered with this song. I went ahead and made a music video that tourism places were asking to have them on their website. They liked the song so much they said why don't you put a video together and why don't you put it on our website. And I said well, I'll do that. So I sent it to three friends for a critique and those three friends were just supposed to critique it and what they did was the song got out, accidentally, and ended up in two weeks into 25,000 people's homes. And in two months, 250,000 peoples' homes and it even made its way to Iraq where I receive letters from soldiers from Iraq thanking me for the song and thanking them for the gift of just reminding them of how wonderful our state is. And in fact, I was lucky enough that I had not met these people. You have to remember I did not know these people and they were sending me e-mails from all over the world--from China and from Iraq--and this is something that the soldiers gave me in thanks for writing the song and giving them hope--this is a medallion for their unit--and someday that they would be coming back. And fortunately, I was able to be there when they did come back and sing the song for them. And to this day, you know, I'm just grateful that this committee is even looking at this song today and I greatly appreciate it. And you know, I've done a study on state songs and I've found that in Tennessee they have five state songs, and in New Hampshire they have eight state songs, and many songs have more than one state song. And so I hope that's something that all of you can think about today. And you know, we have to remember "Beautiful Nebraska" is a great song of integrity and I'm just honored to even think that you'd be even talking about it in the same room. And so I appreciate this opportunity. And right before you I have...little school kids got together and made the front of this for me. I love Nebraska. And this will be for all of you. So whoever I need to tell that I'm going to hand these out. Inside of this is the song, "I Love Nebraska" on CD, and also several versions of how the song, "I Love Nebraska" can be performed by school children age. And then also the words to "I Love Nebraska," how I wrote the song "I Love Nebraska," and the sheet music to "I Love Nebraska." And also involved in this same packet are letters from soldiers from Iraq. Now once again, these are people I'd never met before. So in this packet are people I'd never ever met in my life except through the song, and half of them I haven't met yet. But two soldiers serving from Iraq,

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

General Affairs Committee
February 26, 2007

there's a teacher in China that's taught her children in China how to sing the song. And so she's originally from Nebraska. And then from a number of people from tourism places and just a number of people that the song touched their lives. And I just hope that you consider this song and I appreciate this opportunity today to be with you. And also inside the packet is a list of all the other states and the number of state songs that each one of them have. So thank you for your time, Senator McDonald. Yes, do you have any questions? [LB345]

SENATOR McDONALD: We have to hear the song. [LB345]

GINGER TEN BENSEL: Oh yes ma'am. [LB345]

SENATOR McDONALD: We can't let you go without hearing the song. [LB345]

GINGER TEN BENSEL: If you can play it...okay. [LB345]

SENATOR McDONALD: Those in the back room, if you can't hear it put a thumbs up and we will turn it up for you. Do we know how to turn it on? [LB345]

GINGER TEN BENSEL: (SONG: I LOVE NEBRASKA) [LB345]

SENATOR McDONALD: Thank you. [LB345]

GINGER TEN BENSEL: Thank you. [LB345]

SENATOR McDONALD: Thank you. Did anybody have any questions for Ginger? I'm sorry. I guess none. Thank you. [LB345]

GINGER TEN BENSEL: Yes ma'am. [LB345]

SENATOR McDONALD: We're taking support for LB345. Those that would like to come forward in support, please come on forward. Fill out a form and move to the front of the room. Welcome. [LB345]

MARGE LAUER: Good afternoon. I appreciate being here and speaking on behalf of "I Love Nebraska." I'm Marge Lauer. I'm the executive director of KAAPA, which is an ag development group with our offices in Kearney, Nebraska, and we have 450 farmers and ranchers throughout the state. It was in that capacity that I met Ginger for the first time nearly year ago, and the first time that I heard the song. She was at our office to interview me on our latest project. Some of you may know of KAAPA Ethanol. That's where a lot of people have an association with our ethanol facility and we're pursuing another one now with agritourism and giving farmers and ranchers an opportunity generate additional revenue from resources that they already own, all of these fine

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

General Affairs Committee
February 26, 2007

resources that you hear in both of our songs we're listening to today. Nonetheless, Ginger was there to interview me as a representative for KHAS-TV and she being the interviewer and me, the interviewee, I thought, you know, what I really want to get across to her is not the physical things that I could describe--the horseback riding, the hunting sites, the bed and breakfasts, and things like that in our state--but I wanted her to understand the values and the mission behind KAAPA's effort with this. And that was in order to have farmers and ranchers be able to bring in additional revenue, maybe bring back that family member that wanted to return to the home or keep someone on the farm by giving them a viable business opportunity, and then also preserving the quality of life in rural Nebraska. And so I'm talking to her about values and mission and she said oh, I understand very much. Trust me. I do. I was just I on my horse and I wrote this song. She had already started to put together the clips for the video. And so she was able to call it up on the computer while she was there that afternoon and I listened to it for the first time. And I have to tell you it just kind of gave me goosebumps, because it truly did speak about values and quality of life. And I know "Beautiful Nebraska" quite well. I think we all do if you have any age on you at all in the state of Nebraska. I think it does a very fine job of describing our geographical regions and the physical part of the state. But Ginger's song just kind of moved me because it spoke to the values. And when you hear a church bell ring and you see an eagle soar, I think each of us interpret that probably quite differently. And those are two points that I want to make today and one is that the song does represent values, and secondly, that we can each interpret that personally. We'll interpret what that church looks like, where it sits, and how those bells ring, and when we hear the meadowlark sing and the eagle soar. So it's that that touched me about Ginger's song differently than our current one and I hope that you look at this bill favorably and endorse it. And maybe we do have multiple songs in our state, but this one certainly reflects the quality of life in our state. I thank you very much for your time and listening to this. [LB345]

SENATOR McDONALD: Senator Dierks. [LB345]

SENATOR DIERKS: Marge, I didn't catch where you said who you worked for. [LB345]

MARGE LAUER: KAAPA. It's spelled K-A-A-P-A. [LB345]

SENATOR DIERKS: I know KAAPA. [LB345]

MARGE LAUER: Yes. Ag producer, development group. [LB345]

SENATOR DIERKS: Very well. [LB345]

MARGE LAUER: Yes. Great group. [LB345]

SENATOR McDONALD: Any more questions? [LB345]

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

General Affairs Committee
February 26, 2007

SENATOR DIERKS: No, I don't think so. I think that you've explained it very well. I was thinking as you were talking about the church bells and as Ginger was talking about them. At one point, a number of years ago, I had some surgery on my ears. I was losing my hearing. And I remember that when I got home from the hospital I heard the church bells for the first time in months or maybe years. And that just kind of reminded me of that. It's a good feeling. [LB345]

MARGE LAUER: Great values. Um-hum. Right. Again, thank you. [LB345]

SENATOR McDONALD: Any other questions? Thank you. Looking for support. We have more support for LB345, please come forward. Welcome. [LB345]

CATHERINE WILSON: Good afternoon. I'm Catherine Wilson and I'm a music educator in Hastings, Nebraska. I teach elementary music at Alcott Elementary School, and I was telling my students that I love both songs. I love "Beautiful Nebraska" and I also was telling them that I enjoy the song "I Love Nebraska" as well. And I was asking them for their opinions and their letters and I was trying not to bias them in any way, because everyone has a song to sing and everyone has a song that is in their heart and appeals to their heart. And I would say the majority say that they love the song "I Love Nebraska." I'm going to back up for a minute and tell you how I met Ginger. I heard that she had written a song about Nebraska and that that song was being considered to be a state song. And so I asked for a copy of it so that my students could sing it. They have learned "Beautiful Nebraska" for years and now they are also learning "I Love Nebraska." I personally am from the state of Arkansas, and in Arkansas we have had four state songs. One, we have a historical state song and then we also have a contemporary state song. But I'm just going to give you some of the reasons that my students have for liking the song. They like the beat and they like the contemporary feel of the song and they like several things that appeal to them. The sea of red means something to them. In Arkansas we have a sea of red, too, but it's not like Nebraska's sea of red. I thought we had sea of red in Arkansas, but Nebraska really has sea of red. And they also were telling me that they liked the fact that it mentions corn. And a very astute young man said to me, one of my sixth graders said corn is very important to us, because we're going to make ethanol. We're going to lead the future in ethanol production. The other reasons that they gave for telling me that they liked the song was that there are many visuals of the song where they can actually picture the state of Nebraska and that meant something for them. And they thought it would be good to use in commercials about Nebraska for tourism and products that we make. I personally feel like it's important to develop a collection of songs about the place that we love and so I would like to see lots of Nebraska songs happen. And I do think most of the time that it is a good idea to change things to appeal to contemporary culture. I say most of the time. From 1890-1900 at UNL, the mascot, we were the mighty Bugeaters, and we are very proud of that mighty Bugeater heritage. And when we changed to the Nebraska

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

General Affairs Committee
February 26, 2007

Cornhuskers we're also proud of that. So I would like to see a song that also appeals to the children. I just have to show you these and then I'll give them to somebody else. These are the letters from the students. I asked them which song they liked. We played both of them. They sang "Beautiful Nebraska." We played the other one. I have, out of a class of 20, there were 12 in favor of "I Love Nebraska" for various reasons. Six opposed because they don't want to change. They like tradition. One Jehovah Witness who said he took no opinion and one other student who said they liked both songs and they think we should have both of them. So thank you very much for your time. [LB345]

SENATOR McDONALD: We didn't get your name and spelling. Would you repeat that again? [LB345]

CATHERINE WILSON: Yes, Catherine Wilson, C-a-t-h-e-r-i-n-e W-i-l-s-o-n. [LB345]

SENATOR McDONALD: Okay, thank you. [LB345]

CATHERINE WILSON: Thank you. [LB345]

SENATOR McDONALD: Senator Janssen. [LB345]

SENATOR JANSSEN: Catherine, the first time I heard this new song I was driving home from Lincoln and it was on a late afternoon talk show, and I won't name the particular show, but the only reason I was listening to it was because it was the only thing I could get in the remote area I was at. But they had put a different style on the new song... [LB345]

CATHERINE WILSON: Um-hum. [LB345]

SENATOR JANSSEN: ...and they put it to a rap and it was absolutely terrible. (Laughter) So that song we heard this afternoon, I enjoyed, but the first time I heard it I would have thumbs down on that baby right now. (Laughter) [LB345]

CATHERINE WILSON: I understand. [LB345]

SENATOR JANSSEN: But anyway, it's a very pretty song. [LB345]

CATHERINE WILSON: Thank you. [LB345]

SENATOR JANSSEN: Although I'm not convinced yet. (Laughter) [LB345]

CATHERINE WILSON: I understand completely. Yes. [LB345]

SENATOR JANSSEN: Thank you for being here. [LB345]

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

General Affairs Committee
February 26, 2007

SENATOR McDONALD: Any other questions? I see none. Thank you for coming. [LB345]

CATHERINE WILSON: Thank you. [LB345]

SENATOR McDONALD: For support, we are looking for others that are in support of LB345. [LB345]

CINDY SIMONSON: Hello. Cindy Simonson, C-i-n-d-y S-i-m-o-n-s-o-n. I am a fourth grade teacher at Sandhills Elementary in Halsey and I first learned of the song through e-mail, which I think that's how it was distributed in the first place last spring. So when I heard the words I immediately thought of how perfect it would work in my fourth grade classroom, because fourth graders across the state study Nebraska history. And when we really examined the words of it there are a lot of symbols in it like the meadowlarks singing, there's also a lot of sights of Nebraska and one of the units that we do is a Nebraska vacation where they have to bring in sights of Nebraska and share them. And they were able to pick those things out of the song like the Memorial Stadium, and the streets of the Capitol, and so forth. At the end of the year, my students perform a pioneer play and they wanted to perform the song, and so we played the song along with the video for the rest of the school. I have shared this song, the "I Love Nebraska" song, with my students this year and we also have to do a lot of writing in fourth grade, and so I had them respond to a writing prompt. I just asked them how does the song make you feel? And here were a few of their responses. I can picture an eagle flying and see the corn. Remember this is fourth grade so...I could see a bunch of people wearing red. The stadium makes me feel like I'm in a big lake of red. It makes me feel excited like something new is going to happen in my life. It makes me feel like I'm proud of me because I'm in the best state to be in. It makes me want to tell everyone in the United States that Nebraska is the best state. We should be proud of this state because that song tells how this state is so cool. This song makes me feel happy inside. And the last one I have here is this song makes me feel free and makes me want to sing it over and over. So I guess as a teacher, in conclusion here, it gives me goosebumps to think that a song can create so many feelings inside of one student or inside of all students. They were able to use their senses to be able to depict their feelings and I guess to me, if a song can do that it has power. So after listening to these responses from the students, I guess I believe the students have really said it all. So thank you. [LB345]

SENATOR McDONALD: Thank you. Senator Janssen. [LB345]

SENATOR JANSSEN: Ms. Simonson, thank you for your testimony today, but you teach Nebraska history in fourth grade? [LB345]

CINDY SIMONSON: Right. [LB345]

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

General Affairs Committee
February 26, 2007

SENATOR JANSSEN: I'm getting away from this a little bit here, but do you think that's too early to be teaching Nebraska history? [LB345]

CINDY SIMONSON: No, not at all. No, they actually enjoy all aspects of what, you know, we...some of the timelines that they have to know, I guess, if you go back and look at some of the standards that are required, yeah, maybe some of that is a little bit too much at that age, but... [LB345]

SENATOR JANSSEN: Well, the reason that I bring this up is because Senator Ashford was here earlier today on an appointment. And I remember 12 years ago I was on the Education Committee and at that time Senator Ashford was also in the Legislature, and he had introduced a bill to move Nebraska history to the ninth grade rather than the fourth grade. He thought it was a better fit. They would have retained more at a little older age. [LB345]

CINDY SIMONSON: They do study it at the eighth grade level. And I guess, to me, that's almost a reinforcer that they've become familiar with and be able to start to sow their own identity. [LB345]

SENATOR JANSSEN: Do you think they retain it more at that age than they would as, say, as 14? [LB345]

CINDY SIMONSON: Probably. [LB345]

SENATOR JANSSEN: You think so? [LB345]

CINDY SIMONSON: Or appreciate it even. Appreciate it more at that age. [LB345]

SENATOR JANSSEN: Okay, thank you. Thank you. [LB345]

CINDY SIMONSON: Thank you. [LB345]

SENATOR McDONALD: Any other questions? I see none. [LB345]

CINDY SIMONSON: Okay, thank you. [LB345]

SENATOR McDONALD: We are looking for support of LB345. If you're here testifying in support please come forward. [LB345]

CHRISTOPHER AMUNDSON: Good afternoon. [LB345]

SENATOR McDONALD: Welcome. [LB345]

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

General Affairs Committee
February 26, 2007

CHRISTOPHER AMUNDSON: Thank you. My name is Christopher Amundson from Norfolk. I'm the owner and publisher... [LB345]

SENATOR McDONALD: Excuse me. Want to spell that? [LB345]

CHRISTOPHER AMUNDSON: Sure. Christopher, standard spelling, Amundson, A-m-u-n-d-s-o-n, and I'm the owner and publisher of Nebraska Life Magazine. And we first heard Ginger's song and learned of Ginger a little over a year ago when we put on a photo exhibit and a reception gathering at the Archway Monument in Kearney. And a good friend of Nebraska, Mike Krikac, formerly of Nebraska Food and Gift in Hastings, called me up this Saturday afternoon and asked if he could bring along this TV reporter named Ginger ten Bensel, and asked if she could sing a song about Nebraska. And so I said sure, we'd love to have her. And we had about 200 people at the Archway Monument. We filled the narthex with chairs and had folks there for this reception. And Ginger was doing reporting that today for her television station and came in about five minutes before we were set to begin and she had a boom box just like that, and she was rushed and this was a last minute thing thrown together with her coming in. And she rushed in, set up her microphone next to the boom box, and sang her song. And it was unbelievable the amount of energy and emotion that was filling the Archway Monument that day. I looked around--this was the first time I had heard it, the first time my staff had heard the song, and the first time many people had heard it as well--and I saw tears flooding from people's faces of the emotion that this song was able to capture. And right then I heard people uttering throughout the Archway Monument, this should be the state song. And I was so pleased then to learn of this proposed legislation for the state song because of that strong connection. And we've heard testimony from other people that this song does connect in that emotional way. And I think that we have an excellent opportunity in Nebraska right now with Ginger's song, that we have essentially a trained professional songwriter who has crafted a song which works on many, many levels--both the intellectual levels as well as those emotional levels. And as we look at building a stronger state, a stronger culture, a stronger identity, a stronger economy, strong tourism, etcetera, etcetera, one of those areas we've got to be focusing on is that emotional connection that's beginning with the school children on through high school and on with adults. Again, I think we have a great opportunity here. I know that the legislation is to change to be the new state song which would do away with Mr. Fras's state song, but I've heard ideas today which might be palatable solutions if there is any quandary about eliminating Jim Fras's song as having a historical or perhaps an honorary state song, and then Ginger's as the contemporary state song that we can use essentially to promote Nebraska. Those are my comments. Any questions that I can answer? [LB345]

SENATOR McDONALD: Any questions for Christopher? Senator Dierks. [LB345]

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

General Affairs Committee
February 26, 2007

SENATOR DIERKS: Not really a question. I just wanted to thank you for your contributions to Nebraska with Nebraska Life. That's a fine magazine. [LB345]

CHRISTOPHER AMUNDSON: Thank you, sir. [LB345]

SENATOR DIERKS: I've gotten it ever since...oh, I'm not going to say the name. [LB345]

CHRISTOPHER AMUNDSON: Bernie. [LB345]

SENATOR DIERKS: Bernie Hunhoff (inaudible), yeah. [LB345]

CHRISTOPHER AMUNDSON: Thank you, sir. [LB345]

SENATOR McDONALD: Any other questions? I see none, thank you for coming. [LB345]

CHRISTOPHER AMUNDSON: Thank you. [LB345]

SENATOR McDONALD: Any others wishing to come forward in support? We have another testifier. You can have a seat first, because...and then have one on each side. That will work best and we can hear if they speak. Please say your name, spell your name, and then also the two children, too. [LB345]

ANITA MORSE: My name is Anita, A-n-i-t-a, Morse, M-o-r-s-e, and my daughter is Meghan, M-e-g-h-a-n, and Cassidy. Meghan is in third grade and Cassidy is in second grade. [LB345]

SENATOR McDONALD: You want to spell Cassidy? [LB345]

ANITA MORSE: I'm sorry. C-a-s-s-i-d-y. They go to Rockbrook Elementary in Omaha, Nebraska and just kind of here as school children. And they've known the song for a couple years and they like it and it was easy for them to learn. And, like it's been stated before, that it's good on many levels for, you know, picturing scenes in the state. I've lived in Nebraska all my life and they have, too, and we've lived in different parts of the state, and just appreciating the beauty in the state and knowing things that are going on in the state. [LB345]

SENATOR McDONALD: Any questions? I have a question for Cassidy. What do you like best about Ginger's song? [LB345]

ANITA MORSE: Is there a picture in it that it makes or... [LB345]

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

General Affairs Committee
February 26, 2007

CASSIDY MORSE: Well, when I heard that an eagle spread its wings it kind of let me, you know, think that you can kind of...um-hum...just like a picture of the state in my mind. [LB345]

SENATOR McDONALD: Okay, how about you Meghan? What part of the song do you like best? [LB345]

MEGHAN MORSE: You can picture most of it and it really makes you think of Nebraska. [LB345]

SENATOR McDONALD: Have you seen the video? [LB345]

MEGHAN MORSE: Yes. [LB345]

CASSIDY MORSE: Um-hum. [LB345]

SENATOR McDONALD: Do you like the video? [LB345]

MEGHAN MORSE: Um-hum. [LB345]

SENATOR McDONALD: Thank you. Any questions for this trio? Well, we thank you for coming forward and we look forward to seeing you again. Thank you. Do we have any other in support? We have one more. Will we have anymore support? Okay, this will be our last testimony. [LB345]

ROBERT WOODWARD: Good afternoon. [LB345]

SENATOR McDONALD: Welcome. [LB345]

ROBERT WOODWARD: My name is Robert Woodward, R-o-b-e-r-t W-o-o-d-w-a-r-d. I'm a friend of Ginger's. She shared this song with me early on. I liked it. I heard her get the opportunity to present it to small groups, just 20, 30 people of senior citizens or school children. And I couldn't believe--I mean, I like the song--but I couldn't believe the connection that people made with the song, how emotional they were the first time that they heard it. So I gave her encouragement to record it so that people could actually listen to it and play it over and over again when she wasn't there, which she did. And I saw the response to that so I also encouraged her to put together something on video, not necessarily trying to make a produced high-quality video, just something that people could relate to with images that were in the song. She did that. I must report to this committee, I'm probably the person who has been testified about here that sent this e-mail out against Ginger's knowledge. I sent it to probably 15 people and within hours I was getting back all kinds of e-mails, and within a couple days I was getting e-mails that had been replied to and replied to and replied to from people that were in California and

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

General Affairs Committee
February 26, 2007

Texas and overseas where one of my friends had sent it to their grandmother in California, who had sent it to their sister in Detroit, who had sent it to a soldier overseas, who had sent it back to somebody in Washington, and it came back to me. And this was within a few days or a few weeks. And everybody was...I just couldn't believe the response that it was picking up. I encouraged Ginger to get it on a webpage somewhere where people could tell their friends where to go to just click on this and you could see the video and listen to the music, which she did and it got hundreds of thousands of people looking at this within a matter of weeks, less than two months. I just couldn't believe the response and I'm just here to encourage you folks to at least consider making this a part of Nebraska state history. [LB345]

SENATOR McDONALD: Thank you. Do we have any questions? I see none, thank you for coming forward. [LB345]

ROBERT WOODWARD: Okay, thank you. [LB345]

SENATOR McDONALD: I think that ends the support for LB345. Now we're looking for opposition, and because we're looking at replacing the state song, those that are imposing them would be here to support "Beautiful Nebraska." Would you come forward and do you have a CD? [LB345]

MARK MILLER: How many CDs can we play? [LB345]

SENATOR McDONALD: Do you have...come forward. [LB345]

MARK MILLER: I have one. [LB345]

SENATOR McDONALD: Okay. The page will help you. If you would have a seat first then we'll...and if you would testify first and then we'll play the song. [LB345]

MARK MILLER: Could I defer to later? [LB345]

SENATOR McDONALD: Would you rather testify afterwards? [LB345]

MARK MILLER: Yes, please. [LB345]

SENATOR McDONALD: Okay, very good. [LB345]

SENATOR 0: (SONG: BEAUTIFUL NEBRASKA) [LB345]

SENATOR McDONALD: Those that are opposing LB345 come forward, please. Welcome. [LB345]

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

General Affairs Committee
February 26, 2007

MARK MILLER: (Exhibit 2) Hi, thank you. My name is Mark Miller, M-a-r-k M-i-l-l-e-r, and I am the grandson of Guy G. Miller, Junior, who co-authored the words to our current state song, "Beautiful Nebraska," with Jim Fras in 1960. As you guys know, it was recapped, the song was selected as the state song of Nebraska in 1967 after seven years of effort to get it there. I am here to represent my family, including my wife Renee, my mom and dad--Guy's son--is here today. Of course, my extended family and friends that are in support of keeping the song. I have with me, today, the original sheet music to the state song of Nebraska. This actual copy was passed from Jim Fras to my granddad's mom and dad, indicating how Jim and my granddad worked together to create what he felt was one of their greatest works. And so I'm here primarily to ask you to preserve this piece of history. Specifically, my mission today is to file an opposing view to LB345 to change our song. We're deeply concerned that that state song may be changed. There are several compelling arguments I would like to make. I'll try to keep them brief. The song itself, you just heard, is a poetic tribute to our state and its beauty and the pride of the citizens of the state of Nebraska. The song mixes art that's I think a level of sophistication, and the soft simplicity of the lyrics in the song that we can all remember learning when we were in the fourth grade in the state of Nebraska. Most people, I've found as this issue comes and surfaces in front of me, are able to at least hum a few bars from their memory back in the fourth grade. Other songs do indeed come and go, but I believe this is a timeless tribute to the state of Nebraska. The composers, be my second argument, rich traditional history would mark both composers for this song. Jim Fras was a Russian immigrant who had a heck of a time getting to America and to the state of Nebraska. His story is amazing to get here. I won't be able to tell you today because it takes too long, but suffice to say that his ability to play music pretty much is what kept him alive as he worked through getting over here during the war and after the war. My granddad, Guy, is a native Nebraskan who served his country in the United States Marine Corps in World War II. He didn't tell me a lot of stories about the war, but every once in awhile he would tell me the stories about the war and I could see the battle raging in his eyes. And I can tell you that the feeling that I always got was not easy doing what he did to protect us. I think in their own special way, Jim, as an immigrant, and the story of an American and my granddad, as a veteran who helped keep us free, these guys are heroes. But beyond that, after they met in the fifties, what was interesting is that they're both artists. Of course Jim had a gift for music and my granddad was a poet. He was published several times. They created many wonderful songs together, but not very many were published. When they saw what they had put together with "Beautiful Nebraska" of course, they pursued it and the history is that it's our state song. And thirdly, tradition. I think tradition needs to be revered and respected. Change shouldn't be made strictly for the sake of change. Symbols of our state heritage that we've talked about even today, including our state song along with our state flower and our state tree and our state bird, represent Nebraska. It's necessary to preserve these traditions and to keep the continuity of our heritage consistent from generation to generation. So it's with these viewpoints, the song and its beauty, the composers and what I take great pride in, of course, because one of them is my granddad, and tradition

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

General Affairs Committee
February 26, 2007

itself and the importance of keeping it, that we ask you to honor the legacy of both Jim Fras and my granddad and to keep this song as the state song of Nebraska. So specifically, I would respectfully request that you indefinitely postpone this bill. [LB345]

SENATOR McDONALD: Thank you. [LB345]

MARK MILLER: Um-hum. [LB345]

SENATOR McDONALD: Any questions? Any questions from the committee? Thank you for coming forward and sharing your information. That was great. [LB345]

MARK MILLER: Thank you. I do have a handout if it would be okay to pass out. [LB345]

SENATOR McDONALD: Super. Yes, thank you. We're looking for opposition. If those that are going to oppose this if you would please move forward so that we can rapidly move through this hearing. Welcome. [LB345]

CHARLES BACON: Senator McDonald, members of the committee, my name is Charles Bacon, just spelled like bacon and eggs, and I'm here as a substitute. I didn't plan to testify today. I am the executive director of the NEBRASKAland Foundation. Welcome back, Senator Dierks, by the way. [LB345]

SENATOR DIERKS: Thank you, Charles. [LB345]

CHARLES BACON: The NEBRASKAland Foundation was formed by Governor Morrison to actually do tourism for the state of Nebraska before there was such a thing as the Department of Tourism, Department of Game and Parks, and so forth. It does many, many things throughout the year to promote Nebraska. One of the things it does is promote the Nebraska state song. It's done in a variety of ways. We work with the Secretary of the State's Office to publicize the song along with the other state bird, etcetera. We have it sung at the state birthday parties, which right now are going on across the state. I think Secretary Gale is in Omaha today. He'll be back in Lincoln tomorrow. And they'll sing that. We distribute to all the grade schools in the state. The board also works with the State Fair to have a statewide competition on Nebraska information, and that also includes the state song. This Saturday we will be here in this beautiful building with our annual statehood dinner. All of you got invitations. Most of you did return not them, however. (Laughter) That evening will be concluded by the state song being played. This year it will be a trumpet solo rather than singing it. Specifically, I want to tell you that at the last board meeting last month, the 24 members voted unanimously to oppose this bill. This bill would replace the current state song. I will go ahead and add to that that there was no discussion about having two state songs. This is something we didn't know was even a possibility, but they are on record as opposing substituting a new song for the current one we have. And with that, I thank

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

General Affairs Committee
February 26, 2007

you for your time. [LB345]

SENATOR McDONALD: Thank you. Any questions? Thank you for coming. We're looking for opposition. Next testifier come forward. Welcome. [LB345]

KRISTIN LUKOW: My name is Kristin Lukow, K-r-i-s-t-i-n L-u-k-o-w, and I was under the impression that I needed to write my testimony out and so I am going to read what I have prepared. [LB345]

SENATOR McDONALD: Okay, thank you. [LB345]

KRISTIN LUKOW: (Exhibit 3) My husband and I farm near Holstein, Nebraska and I am an elementary music teacher at Adams Central Wallace #60 and Juniata Elementary Schools. I have been teaching for 23 years and I am speaking today in opposition to LB345. I am passionate about this issue because I teach our young people this song each year. We sing it in the fall when we concentrate on American music and again in the spring when we celebrate Nebraska's birthday on March 1. We sing it and illustrate it as we learn of the history of the man who wrote it, Jim Fras. This Russian immigrant captured the beauty of our state with simple elegance in this song. "Beautiful Nebraska" is a song that unites and inspires. It speaks of the beauty and the promise of the land, the reason the settlers wanted to put down roots here. It's a timeless, classic ballad that children easily sing, enjoy and understand. As I speak with people from across the state and beyond, their question to me is why do they want to change the state song? And I have to ask myself this question. Was there an outcry from the people of the state for a new song? When I asked Senator Burling this question he told me he didn't necessarily want to change the song, he simply wanted to create a public forum for discussion. And according to the letters, phone calls, and e-mails I've received and the blogs I've read and the conversations I've had, this most certainly has happened. I am a member of the Nebraska Music Educators Association and am pleased with their support for "Beautiful Nebraska." I recently received a letter from a member of the board of directors of the NEBRASKAland Foundation in which they join me in favor of preserving "Beautiful Nebraska." I have also spoken with music teachers from across the country and many of them would like to change their state songs because of archaic or politically incorrect language or difficult melodic patterns. "Beautiful Nebraska" has none of these hindrances. It's beautifully poetic, as easy to understand today as the day it was written, and it's vocally accessible for all who wish to sing it. In a cross-curricular assignment, the sixth graders at my two schools wrote our state Senator with their own opinions and ideas. I hope the time was taken to read these letters, for their thoughtfulness and insight were very impressive for twelve year olds. One young lady wrote that we have more pressing issues to deal with in Nebraska. She said that Nebraska is the leading state for underage drinking and that is what we should spend our time changing, not the state song. Some of the students were offended that the proposed new song heralds the Cornhuskers, and this is a point well taken. As an alumnus of the University of

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Transcriber's Office

General Affairs Committee
February 26, 2007

Nebraska-Lincoln, I am a Cornhusker fan; however, this is not true of everyone in the state. We have many colleges and to adopt a state that exalts one would be divisive to say the least. The popularity of sports may well be suited for an advertisement campaign, but not the subject matter of a state song. If there is a need for a new state song, which I do not believe there is, the citizens of Nebraska should have a say. To pass a bill that would replace a cherished tradition with no input of the people would be a travesty. If there is a need, let the songwriters of Nebraska submit their works. "I Love Nebraska" by Ginger ten Bensel is not the only new song about Nebraska and should not be given the unfair advantage to become a new state song with no competition. "Beautiful Nebraska" became our state song in 1967 after years of legislative discussion. It rightly won its place in our state's history and should not be ousted by a bill. Our state song is a classic just like "Home on the Range," Kansas' state song and "Yankee Doodle," Connecticut's state song. Classics age well. They stand the test of time. "Beautiful Nebraska" has just begun its journey as a classic and I am one of many who enjoy teaching our students this musical treasure. I respectfully ask you to drop this bill, honor our history and allow "Beautiful Nebraska" to remain in its rightful place as Nebraska's cherished state song. [LB345]

SENATOR McDONALD: Thank you, Kristin. And many people do write it out and then read it because sometimes the thoughts don't come immediately to them. So this is quite all right. Any questions for Kristin? Seeing none, thank you for coming. Looking for opposition to LB345. Do we have any other testifiers? Please come forward. [LB345]

NICK FRAS: Good afternoon. [LB345]

SENATOR McDONALD: Welcome. [LB345]

NICK FRAS: (Exhibit 4) My name is Nick Fras, N-i-c-k F-r-a-s. I am one of the sons of Jim Fras, the composer of the current state song. I'm not a public speaker. I'll do the best I can. In response to LB345, a bill to change the current Nebraska state song to another, a brief history of the process to choose a state song. In the early 1960s with Nebraska's centennial fast approaching, it was decided that Nebraska needed a state song. Influenced by then First Lady, Maxine Morrison, it was decided by the Legislature at that time that anyone interested in this process should submit their songs to the Legislature for their consideration. Twenty-two songs were submitted and later narrowed down to three with the guidelines that all royalties go to the state. When my father's song was adopted, he was instrumental in making it possible for schools to copy the sheet music on an unlimited basis, thus saving our schools the cost of sheet music. He wrote this song because he loved Nebraska, not for monetary gain. On June 14, 1967, by a vote of 31 to 4, "Beautiful Nebraska" became our state song. Part of the discussion by your predecessors was what kind of song should it be--an anthem, a hymn, or a ballad. It should be easy to sing, play, and be taught to our children in our schools. In our family's opinion and many others, then and now, we feel our current

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

General Affairs Committee
February 26, 2007

state song for the last 40 years fits these desires. This bill also could set a precedent for future legislation. By that I mean, am I or anyone else going to be able to go to the Senator in my district and have him or her introduce a bill such as change the state bird to a different bird, change the flower from one to another, thus rewriting our history books and putting us into needless legislation when there is clearly more important issues? There's more to the story of how this song came about, but I will keep it brief and leave you with these words: Beautiful Nebraska, peaceful prairie land, laced with many rivers and the hills of sand. Dark green valleys cradled in the earth, rain and sunshine bring abundant birth. Beautiful Nebraska, as you look around you will find a rainbow reaching to the ground. All these wonders by the Master's hand. Beautiful Nebraska land. These are some of the words to our state song written by Jim Fras and Guy G. Miller. And our families believe you--no change. You can't describe our wonderful state any better. We respectfully request that you do not consider this bill. Thank you. [LB345]

SENATOR McDONALD: Thank you. Any questions? If not, thank you for coming forward. Next? Welcome. [LB345]

WALLY FRAS: (Exhibit 4) I'm Wally Fras. I'm the older son of Jim Fras. I'm going to speak today also from my notes to keep on track here. I'm going to speak about the essence of the Nebraska state song. Paraphrasing from a 1967 United Press International column they say it took 100 years, but the Nebraska Legislature finally adopted an official state song to put to music the story of the Nebraska countryside. While it is extremely important to our family to preserve the legacy of Jim Fras and the current official state song of the great state of Nebraska, let's not make the mistake of assuming that this gift of song and lyrics was just about Jim Fras and "Beautiful Nebraska" alone. Rather, it was very symbolic of the following thoughts as well. The opportunities which were presented to this man and his family in a free country were without limits. From the bow of his ship as it docked in New York Harbor in 1952, Jim stared in awe at the Statute of Liberty. He knew the history of the symbol of freedom which France had presented to the United States. In his mind and partly whispering, Jim asked what do you hold for our future, beautiful lady? Then he thought, after five years in America you will be mine and I will be yours. He was referring to the five year probation period required by law before an immigrant could become an American citizen. Jim wanted his story to also symbolize this thought--that with the opportunities which Nebraska and America presents, people should not forgive [sic] to give something back. He was hopeful that Nebraska would benefit from the intent of his offering. In Jim's own words, "Beautiful Nebraska" proves to the world that a man from the heart of a communist country deeply fell in love with America and Nebraska. The song shows that to be born behind the iron curtain is good training to appreciate America and through that I expressed my love and loyalty to it the rest of my life. One of the most compelling parts of the history of "Beautiful Nebraska" is the part it has played and continues to play in the hearts of school teachers and school children. Consider just

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

General Affairs Committee
February 26, 2007

some of the recently published comments from teachers in Nebraska. The students can learn it and are able to look around and see what the song represents. Children are still learning this song, especially in fourth grade when they study Nebraska history. It's a very simple, timeless ballad that anybody can sing. "Beautiful Nebraska" is a song that describes the state as a whole, not just certain aspects of it. It captures the tradition and heritage of Nebraska. I'm an elementary music teacher and my students cherish our state song, "Beautiful Nebraska." It's timeless, classic, lovely and rich in history. Children all over the state sing it every year. It's a song that will last through generations and trends. It describes the beauty of our state with simple elegance. I do not want to lose this treasure. Well, nothing in life is permanent, but if we work at it there are values that we can try to pass on to the future. This song and its history are some of those values. Although he was a very proud musician, Jim always portrayed himself as a much better citizen than composer. He valued more his freedom and citizenship, for they allowed him to tour as an ambassador for Nebraska within the state, to surrounding states, and once even to the World's Fair in New York City. He was accompanied there by Nebraska First Lady Maxine Morrison who was proud enough to sing "Beautiful Nebraska" to the world. This was part of the dedication of Jim's music and words by his dear friend Guy G. Miller and himself, which so well describes the gentle state of Nebraska. This is the substance, the very essence behind "Beautiful Nebraska," our first and only official state song. This is why this state song came into being. This essence should not be taken lightly as there was extreme due diligence on all fronts as it was officially adopted. Many other people, in addition to the Legislature, made this happen back then. They did the right thing in the right way. Therefore we hope this committee will drop LB345 and vote to retain "Beautiful Nebraska" as our only official state song. Thank you. [LB345]

SENATOR McDONALD: Thank you, Wally. Thank you for the history lesson. Wait just a second. I believe we have some questions. Senator Preister. [LB345]

SENATOR PREISTER: Yes, Wally. I appreciate you and the other family members, the Millers that were all testifying. Get the impression that this means far more than change of song. I get the impression that the song itself symbolizes the migration to this country. It symbolizes freedom. It's something much deeper for your families than a song or being a state song. Is that accurate? [LB345]

WALLY FRAS: It's very accurate and I think it was from the heart that it was given. And maybe in return for that, but it was for the love of Nebraska. [LB345]

SENATOR PREISTER: And the testimony we heard said that it was given freely and without consideration for the money, that that was essentially a gift to the citizens. [LB345]

WALLY FRAS: This is true. [LB345]

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

General Affairs Committee
February 26, 2007

SENATOR PREISTER: Okay, thank you. We appreciate you being here today. [LB345]

WALLY FRAS: Thank you. [LB345]

SENATOR McDONALD: Any other questions? If not, thank you for coming. Our next testifier. [LB345]

CONNIE SCHNEIDER: (Exhibit 6) My name is Connie Schneider, S-c-h-n-e-i-d-e-r. I'm an eighth grade English and social studies teacher here in the Lincoln Public Schools. The state song should, most importantly, be representative of all Nebraskans, not just a few. In Ms. ten Bensel's song, "I Love Nebraska" it is clearly not the case. For instance, the reference in her song about football Saturdays, the sea of red on the streets of the capital, is certainly not representative of the population of Nebraska. There is a large portion of our population that has never and will never experience that, whether it's their choice or whether they will simply never be able to afford it. I also have difficulty with the reference in her song that Memorial Stadium is the third largest city in Nebraska. Not only is that incorrect, it's a little offensive. Also, riding a horse along a river is something many, most likely the majority of Nebraskans, will never experience. And whether the lack of these experiences is by choice or by lack of means, it still remains that these things are not representative of all Nebraskans. On the other hand, the song written by Mr. Fras, "Beautiful Nebraska," does represent all Nebraskans. Who in this state hasn't either seen for themselves or at least studied in school about the prairie lands that make us so unique? Sandoz, Cather, and Neihardt all wrote about the sand hills, the prairies, the difficulties and beauties of this land. I'm almost certain that at the time Mr. Fras wrote the words to his song, he hadn't read even one of those books, and yet he shared the authors' fascination and love for the land. How much more representative of all Nebraskans could a song possibly be in that its words resonate in the pages of these wonderful books? A song is not just the words, but the music also has to be considered. Again, the sound of the state song should be representative of all the people in that state. I can't say that Ms. ten Bensel's song fills that requirement. Not all Nebraskans enjoy the country western genre of music. But the music of "Beautiful Nebraska" by Jim Fras has an elegant simplicity that is timeless and that every Nebraskan can relate to. This song can be as simple or as elegant as the occasion calls for. I have heard it performed by a child at a piano recital and by a full orchestra with equal beauty. I have heard it sung by a soloist, by a large ensemble, and by my favorite, a group of elementary students. Each performance was as beautiful as the next. I cannot imagine Ms. ten Bensel's country western-influenced tune having that same kind of versatility. Finally, I don't understand why we are even considering changing our state song. Once a state song, or bird, or flag or anything chosen to represent our state is chosen, shouldn't that remain a part of our history? We don't change our Nebraska history or rewrite any part of it, so then why would we change our state song? So thank you. [LB345]

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Transcriber's Office

General Affairs Committee
February 26, 2007

SENATOR McDONALD: Thank you, Connie. Any questions for Connie? Seeing none, thank you. Our next testifier. Do we have just one more after you? Okay. Welcome. [LB345]

JUNE ROZANEK: My name is June Rozanek, J-u-n-e R-o-z-a-n-e-k. I am from Geneva, Nebraska. I am a nurse at Fairview Manor, which is a nursing home at Fairmont. I began working there in 1995. Jim and Irene Fras were living there at that time. Jim passed away about four years ago. I was there the night he passed away. And I got to know Jim and Irene. I'm sorry. They had been in concentration camps. They were truly heroes. Jim told stories about how he helped the American soldiers when they were at war in Germany and he saved lots of lives of our Americans. Jim was a very professional musician. To hear his music, it was not mechanical notes. It was music. And he played from the heart. He was so in love with Nebraska. He would entertain us at the nursing home and many, many people came in to hear him play. When he played it was truly beautiful. He gives credit in his song when he says it's the work of the Master's hand. And I heard his song...I have a CD by the Scarlet and Cream Singers. And everyone has their own opinions. I think it's more beautiful than the one we heard here, but they even transferred it into a little bit of a swing type melody. And it can be sung by children. Jim had the privilege of going to elementary schools and hearing children sing his song to him. A couple weeks ago, Irene Fras received a packet in the mail from Valparaiso. The children there had written her letters and when Senator Karpisek was out at Geneva a couple of weeks ago I gave him that information and I think he stopped there at the nursing home and visited Irene. And he saw the letters that the children had sent her. People in Fairmont and towns around--Grafton, Geneva, Bruning, Shickley--they have heard Jim's music. They knew his song. And when I said that I was coming here to this hearing, they gathered up signatures of people in that area. It's not legalized. It's not notarized and all of that, but it's true names and addresses of people in that area who love Jim's song. They loved his music and they truly shed tears when they heard him play. So this is my support of opposing LB345. [LB345]

SENATOR McDONALD: Any questions? Yes, Senator Karpisek. [LB345]

SENATOR KARPISEK: Thank you, Madam Chair. Thank you, June, for telling me about the whole situation. I'm very proud to say that Mrs. Fras is in my district and I did go see her. And I've got goosebumps now to see the despair on her face to wonder why this was happening to her husband's song. Really hit home to me. She said, you know, I think maybe people just weren't thinking to realize that it would hurt me so much. I said well, I'm sure it wasn't on purpose. But another reason. I was getting the credit for bringing this wonderful bill. Senator Burling, thank you. (Laughter) So I did want to say thank you. I went over and saw her and I'm very glad I did. And I think that her heart is a little more at ease now so thank you very much and thank you for coming and testifying.

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

General Affairs Committee
February 26, 2007

[LB345]

JUNE ROSANAK: I would like to give you these signatures that are authentic. [LB345]

SENATOR KARPISEK: He'll grab them for you. [LB345]

JUNE ROZANEK: Oh, I'm sorry. Thank you. [LB345]

SENATOR McDONALD: Appreciate that, thank you. [LB345]

SENATOR KARPISEK: Thank you. [LB345]

JUNE ROZANEK: Anything else? [LB345]

SENATOR McDONALD: That's all. Okay, I think this will be our last testifier in opposition. Welcome. [LB345]

PAUL J. SCHNEIDER, JR.: (Exhibit 7) Good afternoon, Senators and others. My name is Paul J. Schneider, Junior, S-c-h-n-e-i-d-e-r. Change for change's sake is usually not a valid or reliable reason to promote altering anything. There are some identifying factors that should be considered prior to instituting change. One, is there a need for a change? Is there a problem or concern with the structure or nature of the current state song. No. "Beautiful Nebraska" has good lyrics and music and its chord progression makes it very easy to sing. Is the imagery that is portrayed in the song accurate? Yes. I have lived in Nebraska all my life. I have seen the prairie. I've seen many rivers. I've seen the sand hills and have driven through beautiful valleys. But even if I hadn't seen all of these wonders, I could have described to others what Nebraska looked like with the song "Beautiful Nebraska." If it's not broken, why fix it? Is there a new improved model? Everyone's looking for a new improved model. When I was younger, I was more arrogant than I am today. I was always sure I had a better, quicker, smarter way of doing things as opposed to the ways of those around me. I was also more stubborn than I am today. My wife testified a little earlier. She may argue that point. I tried to cut corners to make things better. My father would listen to my ideas and then tell me what I was proposing had been tried before and wouldn't work. I wouldn't listen. I had to try things for myself. I didn't understand there were things in the world that would stand the test of time. I didn't understand that tradition had a place in the fast-paced world around me. My arrogance didn't allow me to understand that many of those who had gone before me had gotten it right the first time and there was nothing to improve on. My father would take our family on vacation and as we traveled down the narrow, two-lane roads toward Hastings, Valentine, Scottsbluff, or anywhere else, he would continually be commenting on the scenery in the state, and he helped instill in me an appreciation for all the things Mr. Fras and Mr. Miller wrote about in their lyrics. Is the proposed song better? Does it have the staying power that "Beautiful Nebraska" has? "Beautiful

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Transcriber's Office

General Affairs Committee
February 26, 2007

Nebraska" is a ballad, which makes it easy for people of all ages to sing, and the style gives it a rhythm that is simple, yet dignified. The proposed song has a country style, is a much faster tempo, and sounds more appropriate for a dance. I would think a state song, by its nature, would be more solemn. Because my father was affiliated with Nebraska athletics, as I was growing up, Memorial Stadium was like a second home to me. The proposed song references the university in two verses. This would not be a concern for many people, but I personally know several who would feel alienated by the references. It may be hard for some to believe, but not all lives revolve around Big Red and football, and many look to the stadium and feel it is an elite group of people who get to go to the games, and so the verses do not represent the state in its entirety. The second concern with the two verses in the proposed song relates to the staying power. "Beautiful Nebraska" has verses that will ring true for many years. However, the proposed song speaks of Memorial Stadium as the third largest city. What happens to the state song if the stadium goes the way the old coliseum and is moved or renamed? You may say that won't occur, but a few years ago there was talk of putting a new improved stadium between Lincoln and Omaha. Or what happens if attendance at the game dwindles and Grand Island grows, and the stadium is no longer the third largest city? While this may not happen for many years, will we then need a different state song so the lyrics will still ring true? While I was comparing the two songs there was something in the proposed song that may not be a big thing to many, but it disturbed me. It is the use of the simple word I. If you are singing "Beautiful Nebraska" it doesn't matter if you sing it alone or in a group, the words still make sense. But if you have a class of 20 fourth graders singing the proposed song, and they're singing I live in a state, I love Nebraska, I believe that says it all, I'm from Nebraska, you have 20 individuals singing the state song. If the song is support to represent all of Nebraska, shouldn't the words be we live in a state, we love Nebraska, we believe that says it all, and we're from Nebraska? Ms. ten Bensel's song and video could possibly be refined and used by the Nebraska tourism and travel division to be an advertisement for tourism, especially for out-state Nebraska, but it does not rise to the level of what the Nebraska state song should be. I would like to end with a quote by G.K. Chesterton who was an English born essayist, novelist, and poet. He wrote, tradition means giving votes to the most obscure of all classes, our ancestors. It is the democracy of the dead. Tradition refuses to submit to that arrogant oligarchy who merely happen to be walking around. Thank you. Any questions? [LB345]

SENATOR McDONALD: Thank you. Any questions? I see none, thank you for coming forward. Is this is our last opposition? Do we have one more? We're going to wrap this up quickly, because we still have two more bills. Welcome. [LB345]

DR DAVID J. HIBLER, SR.: (Exhibit 8) My name is Dr. David J. Hibler, H-i-b-l-e-r, Senior, 3103 North 50th Street, Omaha, Nebraska, and I appear on behalf of Citizens for Beautiful Nebraska, which as you'll see from the handout that is coming around is a nonprofit group that has formed to promote "Beautiful Nebraska." You Senators have all

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

General Affairs Committee
February 26, 2007

received some of our publications over the last three weeks. You should have received, over two weeks ago, with the introduction of the survey that we circulated, a copy of an essay titled "If It Ain't Broke, Don't Fix It." And I have heard repeatedly here this afternoon similar observations to what you've already seen and then I won't bore you with it again. You also should have received a half dozen copies of a newsletter we brought out called "Pit Stop," which has followed some of this controversy as it swirled around the Capitol. But if I could return, please, to just a report on the questionnaire and our findings as a result of having conducted this survey, the five-second version of our findings is threefold. One, there seems absolutely no traction in the Nebraska Legislature for the advancement of LB345. Not a single senator has been willing publicly to express any support. That's within the context of our hearing. We did not find one senator who expressed support for LB345. Many senators feel LB345 has already caused their staffs considerable expenditure of time that might have been better spent elsewhere. And three, the commotion over LB345 has rekindled an interest in "Beautiful Nebraska" and the unique contributions made to this state by James Fras and Guy G. Miller, collaborators on the Nebraska state song. Now on the second page there you'll find a summary of the data from the questionnaires which we circulated, and on the third page under percentages of participation you will find that out of 49 senators only 20--that is 41 percent--returned completed surveys. And I thought that was a pretty bad representation of people who are willing to return completed surveys until I heard the gentleman from, I think it was Nebraska Foundation earlier, saying that they invited you to dinner and they didn't even get a majority of you who returned the invitations. So I feel a little bit better. If the majority won't even opt for a free meal that I guess 41 percent was not that bad. And in addition, an additional 22 senators--that's another 45 percent--gave their positions orally without returning the written surveys. And finally, seven senators--that would be 14 percent--declined to participate. Of these final seven senators, one refused on principal to do any questionnaires, one refused this questionnaire in particular, and five failed either to return the printed survey or to notify their LA or AA as to their position on LB345. By collecting responses in separate envelopes for the new senators versus the veteran senators, we were able to preserve anonymity of response while still tracking responses from the large group of new senators versus the older group. Interesting results as to participation were exactly contrary to what we otherwise might have expected. For we presumed that the new senators, by virtue of being fresh to the process, would be the ones most willing to express their opinions and participate. Yet, only 32 percent of the incoming group returned their written questionnaires versus 46 percent of the more veteran group. Findings for the completed questionnaires, which were divided up into three sections, one item having to do with public process, one having to do with suitable lyrics, and a third having to do with waste of valuable time--all of which are ideas that you've heard discussed already here this afternoon. Question one, public process. Eighty percent of the senators responding agreed strongly or agreed that "it would be both anti-democratic and ill-advised for the state to consider making any replacement without previously engaging in some similar public process." That is similar to the public

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

General Affairs Committee
February 26, 2007

process that was done 40 years ago when the song was first adopted. The other 20 percent had no opinion. There were no indications of disagreement to this proposition. Given the limited size of the sample, there was no statistically significant differences between responses in this regard from the new senators versus the veteran senators. Two senators did comment in this regard as follows. One, "If change is desirable then a new open process should be used, not a single legislative bill." And another senator, "The previous process provided far more public input and an opportunity for all the citizens to provide their own contributions. If the state song were to be changed, we should make the process open to more than just one song or one person." Question two as to offensive lyrics. Fifty-five percent of the senators responding agreed strongly or agreed that it would be inappropriate for any song to be considered as the Nebraska state song if its lyrics are divisive and/or offensive. Twenty-five percent expressed no opinion. Twenty percent disagreed or disagreed strongly. Among those senators who disagreed with the proposition, one asked "since when has big red be something we cannot mention? And referring to religion, you can hear church bells ringing on Sunday morning. Since when is that offensive?" And one other commented quite rightly that "Almost anything could be found offensive by someone." But the majority position was perhaps best expressed by the senator who commented, "No state song should be divisive or offensive. While I don't believe 'I Love Nebraska' was written with a divisive or offensive intent, those aspects should always be considered." And as you've heard from previous people testifying here today, those aspects already have come to play in the public mind from people who do feel that the new song is in some ways divisive rather than unifying. And finally, question three, waste of valuable time. Sixty percent of the senators responding agreed strongly or agreed that LB345 should be withdrawn pending further study and reflection so that the Legislature may get down to the serious business of government without squandering valuable committee time and energy on such a frivolous and ill-considered pursuit. Twenty-five percent had no opinion and 15 percent disagreed or disagreed strongly. Again, given the limited sample, there seems a statistically significant difference between the new senators--83 percent of whom agreed or agreed strongly with this proposition--versus the veteran senators where 50 percent was the agree or agree strongly. Among those senators who disagreed with the proposition, two observed "it was not a waste of time when the Legislature did it for the other song." And another senator, "apparently it--spending time discussing the state song--was important at one time." But perhaps the most balanced observation of the issue was given by the senator who commented, "While we should refrain from introducing legislation that is deemed trivial, sometimes legislation can provide for a greater discussion. LB345 has brought a lot of attention and history to our current state song which I believe provides for a greater appreciation of the song itself and the story behind it and its composer." So I guess if there is a rainbow out of the clouds or a lining to that dark cloud, it is the fact that all of this controversy and upset, it seems to me, has had somewhat of a beneficial impact in this state and that it has redirected us to understand what a treasure we do have in "Beautiful Nebraska." There are some additional written comments by senators there in section five. I move to number six, the

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

General Affairs Committee
February 26, 2007

findings from oral comments. As noted above, 22 senators--that is 45 percent of the Legislature--elected simply to state their leanings orally in lieu of filling out the questionnaire. Of these senators, 15--that is 68 percent--stated they favor retaining "Beautiful Nebraska" as the state song, while 7--32 percent--had no opinion. Not a single state senator expressed any oral support for replacing "Beautiful Nebraska" as the state song. So in the summary of findings, as stated previously, 16 senators in writing agreed strongly or agreed that it would be ill-advised to consider making a change to the Nebraska state song without first engaging in a more public process similar to that done a half-century ago. An additional 15 senators have stated their oral support for "Beautiful Nebraska." Totaling these two groups gives 31 senators seemingly opposed to LB345, 11 senators who have declared they have no opinion and present, and seven senators who decline to reveal their leanings at least publicly within the context of this survey. Put simply, the past three weeks of sampling opinion in the Legislature has revealed absolutely no interest in replacing "Beautiful Nebraska" as the official state song and increasing apprehension that the Unicameral has already spent far more time than was prudent on a seemingly trivial issue compared to other major issues currently on the legislative plate. Thus, Citizens for Beautiful Nebraska respectfully request that the General Affairs Committee kill LB345 in committee before any more time is wasted in an ill-advised, if not frivolous, pursuit which is destined to go nowhere. And I thank you. And I might close up finally by saying in addition to the written report, we have heard advanced also today, the suggestion that well, maybe you should have two or three or more state songs or whatever, which maybe that is an idea, which is open for discussion, but I would suggest to you that is not the idea which is on the floor right now. On the floor right now is LB345, which is a bill to substitute and I would simply urge you, in light of the findings of this result in which such a large percentage--80 percent majority of the senators who did respond to the written survey--indicated that they found problems with the process. They were not satisfied that the process was as open or as public as it should be. If indeed there should be any desire to want to expand the number of state songs we have to have a traditional or another kind or whatever, I would simply suggest to you that this would be the work for some type of a study committee and having an open process which would invite other people, rather than just someone who happens to bring forward an idea, to participate in the process. Thank you and I'd be happy to answer any questions if there are any. [LB345]

SENATOR McDONALD: Thank you, Dr. Hibler. Any questions? Concerns? The amount of people that surveyed that you received back means two things as far as I'm concerned. Sometimes we're busy and don't have time to do it and we're not here just for the food. [LB345]

DR DAVID J. HIBLER, SR.: No, I understand. And in fact, if I could clarify that, I also did say on the cover letter, I would personally like to extend a word of sincere thanks and appreciation to your staff and particularly to your LAs and your AAs who have been so

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

General Affairs Committee
February 26, 2007

kind and courteous over these past few weeks. Their helpfulness and consideration made what otherwise might have been a thankless job into a task that was actually somewhat pleasant. I've never been to testify to the Legislature before. I never anticipated being here. I've learned a lot in three weeks. And a lot of what I learned is indeed, as you have said you have a lot of very talented and very good and helpful people who are just inundated. And in fact, I think as much as anything else, when I first started having a number of senators who said well, I don't want to get the written thing back but here's where I stand, I thought well, is there something going on here behind the scenes that I don't understand. And I think what it really simply was is that people are just pushed with time restraints so much that they are--how shall we say it?--gasping for air on the important things they need to do, but thank you again. [LB345]

SENATOR McDONALD: We earn our money. Thank you. Any others in opposition? Neutral testimony. Do we have anyone in a neutral position? If not, I see Senator Burling back so that means he probably wants to close. Welcome again. [LB345]

SENATOR BURLING: Thank you, Senator McDonald. The correspondence that I had with people I didn't think there would be any neutral testimony. It seems like people were on one side or the other. Thank you very much for hearing this bill. I toyed with introducing this bill for a great deal of time until after the Inaugural Ball, when it was sung at the Inaugural Ball. That's when I decided to introduce the bill. And that's because--not that there's anything wrong with "Beautiful Nebraska"--I said in my opening that's a wonderful song. But this particular song, "I Love Nebraska," I observed that it elevated itself with the help of people who heard it to the plateau where it is today. It wasn't promoted by anybody. People just heard it and they lifted it up and said this is a song that deserves discussion, to be put in a prominent place in Nebraska statute. That's why I introduced the bill. Now if the committee doesn't want to advance the bill to the floor as it is currently written, I would be perfectly willing to work with the committee on giving it another designation. You've heard today that some states have different designations for different songs or more than one song. So there's several ways that I have in mind that this could be done. Keep the one we have, add this one under another designation such as contemporary or honorary song or something like that. I would be glad to work with the committee to amend it that way if you would so choose. And so are there any questions? [LB345]

SENATOR McDONALD: Any questions for Senator Burling? If not, thank you for coming back and that ends the hearing on LB345. [LB345]

SENATOR BURLING: Thank you. [LB345]

SENATOR McDONALD: I think we'll take about a two minute break before we get to our next bill. Okay, we'll have Senator Flood with LR11CA. Before we get started, how many will be testifying in support? Six? How many will be testifying in opposition? Two?

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

General Affairs Committee
February 26, 2007

And how many neutral? One. So that's about 10 so please rapidly come forward and be ready to testify. And keep your testimony pertinent and not redundant so that we can move forward. We also have another bill yet. The first one took a little bit more time than we expected. I guess not, we expected it. So anyway, thank you. [LB345]

SENATOR FLOOD: Thank you very much, Chairwoman McDonald and members of the General Affairs Committee. I'm singing a little different tune in my bill today. My name is Mike Flood, F-I-o-o-d, and I represent District 19 which includes the city of Norfolk and all of Madison County. I am here today to introduce LR11CA. This resolution proposes a constitutional amendment that would take 3 percent of the lottery proceeds after the payment of certain existing constitutional obligations and direct that money to the crime commission for law enforcement grants. More specifically, this money would be used for drug enforcement officers and efforts. Those of you who were here last year may remember hearing about the federal Byrne dollars. About 20 years ago, Congress set up the Edward Byrne Fund as a memorial to a law enforcement officer. Nebraska has done and is doing great things with our Byrne dollars. Many areas of the state have set up drug task force that span more than one county and include local and state law enforcement together. In northeast Nebraska, for example, we're fortunate to have the SNARE drug task force which includes full-time officers from several agencies paid for by Byrne dollars. If we lose this grant money we will likely lose the task force and in rural areas individual counties simply do not have the resources to conduct the type of drug and addiction operations that these drug task forces are able to coordinate. If we ignore the need for funding we will be setting law enforcement back 20 years in their efforts to combat drug-related offenses. As a state, we need to encourage and support these cooperative efforts. Unfortunately, this year there is the possibility again that we will lose at least a portion of the federal Byrne dollars that have made this cooperation possible. Again, those of you who were here last year may remember that in mid-January, our congressional delegation advised the Appropriations Committee that the Byrne program was in danger of being cut entirely. Our federal representatives were able to restore about 53 percent of the funding last year and local law enforcement came to the Legislature asking for help. They simply were not expecting these cuts and they just wanted to ensure that their cooperative efforts would be able to continue while they explored alternative funding sources. Last year, the Appropriations Committee, as a group, voted against the Byrne Fund grants. During select file debate on the budget bill, however, Senator Don Pedersen, former chair of the Appropriations Committee, offered a means to fund the grants with minimal impact to the General Fund. Eventually I offered an alternative compromise amendment to replace the portion of the lost federal dollars with General Fund dollars, and this was not intended to be an ongoing appropriation. Rather, it was intended to be a one-year fix to give law enforcement the time to find an alternative funding source. The amendment passed and \$353 was made available for Byrne type grants in '06-07. During the interim, I explored this issue further. I worked to identify a funding source. LR11CA is the result of our efforts. Again, LR11CA, if approved by the people, would direct 3 percent of the lottery proceeds to the

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

General Affairs Committee
February 26, 2007

Crime Commission for Byrne Type Grants. These grants would require a local match. Information provided by the Department of Revenue indicates that LR11CA would raise around \$775,000 annually for law enforcement. This is approximately the amount that was cut last year by Congress. I want to conclude by clarifying that this is not some veiled attempt against environmental interests. Yes, LR11CA proposes to reduce the Environmental Trust cut from the lottery proceeds by 3 percent, but no, I do not have anything personal against the Trust. I understand that it does great work and good things have happened across the state because of it. That being said, LR11CA is simply a proposal that the people have an opportunity to speak on this issue. Let's let the people set the priorities when it comes to the state's lottery proceeds and let's at least give them a chance to consider this option. Personally, I see it this way. We have communities that are ravaged by meth. We have home-based day cares ten walking steps from a Quonset where a meth lab exists and we need these grants to continue so that law enforcement are out there making the arrests to make our communities safer and to see that kids don't grow up in a meth environment. And I'm looking for a way to fund law enforcement efforts so that we don't regress in our enforcement efforts while we should really be enhancing them given the problems that we have. I would just ask for your favorable consideration of this bill and know that I'm looking for a solution, and if you disagree with the way that I'm doing it I'd be up for any suggestions that you may have to redirect my efforts so that we can accomplish a solution, make sure that they're fully funded. Thank you, Madam Chairman. [LR11CA]

SENATOR McDONALD: Thank you, Senator Flood. Any questions? Senator Dierks. [LR11CA]

SENATOR DIERKS: Senator Flood, these start out being federal dollars, right? [LR11CA]

SENATOR FLOOD: Yes. [LR11CA]

SENATOR DIERKS: And is there no chance at all of improving federal dollars for this program? Is that over with or... [LR11CA]

SENATOR FLOOD: No, it's still up in the air. There's still a chance it could come through in its entirety this year. I don't want to mislead anybody. And if that's the case, I would withdraw this bill in a moment. But my concern is that given the nature of the federal appropriations process, we're on a year-to-year, moment-to-moment situation as far as where we are with these drug task forces and I think they're important enough to keep going. But yes, there is a chance that the federal government could fully fund these projects this year, but I understand that we are in a situation where they are, again, in jeopardy. [LR11CA]

SENATOR DIERKS: Thank you. [LR11CA]

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

General Affairs Committee
February 26, 2007

SENATOR McDONALD: Any other questions? Senator Karpisek. [LR11CA]

SENATOR KARPISEK: Thank you, Madam Chair. Senator Flood, I think it's great that you're trying to go this way. I agree 100 percent. Is there any reason why you didn't split it between the two, the education and the environmental? Or is that... [LR11CA]

SENATOR FLOOD: Well, quite honestly, the reason that I chose to draft it to have the 3 percent come from the Environmental Trust was that I felt government has core responsibilities. One of those responsibilities under our constitution is to educate children and one of our other core responsibilities is to provide for the public safety of our citizens. And the Environmental Trust, I think, has been explained to me as a fund that allows us to do those extras to enhance the quality of life for Nebraska and provide money and funding for environmental projects. And that's why I chose the Environmental Trust. [LR11CA]

SENATOR KARPISEK: And I certainly wasn't advocating that we need to take it from education. I just wanted your take on that. Thank you. [LR11CA]

SENATOR FLOOD: And if I could add one thing, Senator McDonald. I did tell the folks from the Environmental Trust I did not organize any support today, honest to God. I know that six people are here and that I want to be very clear that I know that there are two people here, maybe three, that would testify in opposition. Had they known six were coming I'm sure they would have had 60 here in opposition. So I don't want their opposition numbers to mislead the committee that there's not a lot of opposition. I fully admit that there's a lot of opposition to this bill from across the state from groups like Pheasants Forever, Ducks Unlimited. And I'm willing to work with them and the Legislature to try and find a solution, but I don't want their small numbers to be representative of their concerns. [LR11CA]

SENATOR McDONALD: Any questions? Senator Preister. [LR11CA]

SENATOR PREISTER: Senator Flood, I noticed you didn't try to take the money from the Highway Trust Fund. Any reason for that? [LR11CA]

SENATOR FLOOD: Well, that's another fund I'd like to see augmented, but I guess if you think of it this way, our environment can be put at risk by the problems that meth presents. These meth labs are in rural areas. The ingredients for meth are left in ditches, homes, Quonsets, barns, fields. And they are themselves a hazmat concern. And so I also felt that tying this problem to our environmental concern funding would be a more appropriate way to go and that's why I did that. [LR11CA]

SENATOR PREISTER: Okay, but the Highway Trust Fund, a lot of drugs are

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

General Affairs Committee
February 26, 2007

transported on the highway. A lot of things are going on getting them to places, getting them to the end consumer. So I can see a nexus there. My concern...and I support what you're trying to do. I think we need to do this. You said one of the core responsibilities of government is to provide for the public safety. And I submit to you I think that should come from the General Fund and we should pony up and we should--if the federal government doesn't do it--provide for in Nebraska, and I'm willing to do that. [LR11CA]

SENATOR FLOOD: I would love it if the General Fund would just have a base number in it each year to fund for these types of...that's the most appropriate way to do it, but for whatever reason we've had troubles getting there. [LR11CA]

SENATOR PREISTER: And I understand your difficulty in getting that funding and you're trying to find a way that works, and this was what you found to be a way at least. Thank you. [LR11CA]

SENATOR McDONALD: I have a couple of questions. And of course it was simpler before we put it in the constitution when we added the state fair, because now it has to go to a vote of the people and we won't have the vote of the people for two years. So even though we would pass it this year, it wouldn't go to the vote of the people until the next election which would be two years from now? [LR11CA]

SENATOR FLOOD: Right. My thought was at least I could go back to the communities that fund the task forces in the state for now and say listen, we have a potential solution coming if the people of the state want to do that. You know, let's find the money somewhere until that time. But I recognize it's not a solution for this upcoming fiscal year. [LR11CA]

SENATOR McDONALD: But yet we don't know if there's still federal dollars. [LR11CA]

SENATOR FLOOD: No. [LR11CA]

SENATOR McDONALD: And fortunately with...I had a constitutional amendment last year that added more money for the compulsive gamblers that without the education to the public it's very difficult for them to understand what they're voting for, and even though we would pass it on the floor doesn't mean that the people would understand when it comes time to voting. And so I would guess that we might also look at some alternative funding if and when that happens. [LR11CA]

SENATOR FLOOD: Right, well, with regard to the public campaign, my secret weapon is Lynn Rex who's in the room today. If I would trust any public campaign, you know, about money for law enforcement, I'd trust the League of Municipalities. And I know they maybe not have taken a position on this bill, but I feel with the support of the law enforcement community it would be something that would be at least put out there for

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

General Affairs Committee
February 26, 2007

the public consumption. But I'm at wit's end to figure out how we fund these things and provide some stability for the communities that have these drug task forces. [LR11CA]

SENATOR McDONALD: Senator Dierks. [LR11CA]

SENATOR DIERKS: Senator Flood, I don't see a fiscal note with this. Will there be an A bill that goes along with it? [LR11CA]

SENATOR FLOOD: I don't believe they can draft an A bill because they'd be merely estimating what would come out of the fund down the road. So I don't believe there's an A bill, but \$775,000 is what our sources told us would come from this. And that's a debatable number as far as what 3 percent actually generates. [LR11CA]

SENATOR DIERKS: Thank you. [LR11CA]

SENATOR McDONALD: So we're just actually taking 3 percent of the money that's going to the Environmental Trust as a beneficiary. We're just designating 3 percent of their total amount to this Byrne Fund? [LR11CA]

SENATOR FLOOD: Yes, 3 percent of the entire pie that's now allocated to the Environmental Trust would be diverted to the Crime Commission. And I believe some of the opponents of this bill may have you believe that it's not written clearly. I believe my bill is fairly clear in LR11CA as to where that 3 percent comes from, because all the numbers have to add up at the end. So... [LR11CA]

SENATOR McDONALD: And looking at the amount that the Environmental Trust has received, say, in the last three years, has that continued to grow? [LR11CA]

SENATOR FLOOD: I wouldn't be able to answer...I believe the lottery generates around \$19 million to \$20 million. I don't know how static that number is. I haven't seen a three year comparison. [LR11CA]

SENATOR McDONALD: Thank you. [LR11CA]

SENATOR FLOOD: And I have something upstairs. May I be excused? [LR11CA]

SENATOR McDONALD: You may be excused. Are you planning to close? [LR11CA]

SENATOR FLOOD: I would waive closing as well. [LR11CA]

SENATOR McDONALD: All right. Thank you, Senator Flood. We'll take our first support for LR11CA. You're wishing to support that constitutional amendment, please come forward. Thank you. [LR11CA]

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

General Affairs Committee
February 26, 2007

GARY LACEY: Hello, my name is Gary Lacey. I'm the Lancaster County attorney and I come here in support of this bill as a member of the law enforcement community and as a representative of the Nebraska County Attorneys Association and the National District Attorneys Association. I am a former officer of the County Attorneys Association. I'm on the board of directors for the National District Attorneys Association. So I can keep an eye on what is happening year to year on these Edward Byrne Memorial Funds and I have kept track of them for the last 15-20 years. The Edward Byrne Memorial Funds are generally used to fight drug crimes. They're given to various states based upon the state's population and so Nebraska has traditionally got when the fund was fully funded about \$3 million every year from the federal government. It's passed through the Crime Commission and people in the law enforcement community, I think, there are now currently seven or eight drug task forces. And those drug task forces are patchworked across the state. Omaha has one. Lincoln has one. But there are huge ones all of western Nebraska, all of the panhandle is in one called WING. Almost every county in the state of Nebraska is currently a part of a drug task force. The reason the task force are effective is because it gets law enforcement people in those counties to cooperate with each other and to cooperate with the Nebraska State Patrol. The cooperation then gives them lots of intelligence that they can share back and forth all across the state and even from other states to see where drugs are coming into the state of Nebraska and how best to prevent against that. Without this cooperation, it's just one small police department and another small police department maybe putting an officer out and making buys on the street. When they cooperate as a unit like all of western Nebraska, all of Omaha and Lincoln, and all the other task forces around the state, including the one that the senator just described in Norfolk and up in the northeast part of the state, they become very effective. The Byrne money was intended to foster this cooperation and the cooperation has been, to say the least, just outstanding. Not only do the local law enforcement officers cooperate with each other, but in the Omaha and Lincoln areas the local police departments cooperate with the state patrol. That sometimes can be a big problem, because sometimes they, you know, work at odds with each other. They are on each other's turf. And not only that, they cooperate with the FBI and with United States Attorney Office. My office has two prosecutors who do nothing but prosecute in the federal court, and the reason they do that is because Nebraska law has almost zero potential as far as punitive measures go to get after the drug dealer. Now there may be a lot of people out at the penitentiary there for drug dealing, but I'll tell you, they don't go out to our penitentiary for drug dealing for the kind of time that we get in federal court. Because in federal court, for distributing meth in Nebraska, if the quantity is sufficient enough, they get life in prison. Life in prison. And that means no parole. They serve life in prison. They get 30 years in prison. They get 15 years in prison. In Nebraska, typically in Lincoln, they'll get probation for dealing drugs and then first they'll go to pre-trial diversion, then they'll go to drug court, and then they'll go to probation, and then they'll maybe get some local jail time. And then on maybe the fifth or sixth felony conviction they go out there. And then it will be for like two years or three years.

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

General Affairs Committee
February 26, 2007

Well, those people they're just coming back and forth onto the streets of this community. So I'm really quite enamored with and sing the praises of the cooperative efforts that local law enforcement in Omaha and Lincoln and these other task forces...and they have the task force out in western Nebraska, specifically in North Platte, they send an attorney to work in the federal courts here in Lincoln, in Omaha, to prosecute these cases federally. So unless you guys want to pony up more prison space so that we can put these drug dealers and meth dealers away for a long period of time, which is what they need to do, because you don't rehabilitate a drug dealer. It's just like you don't rehabilitate a person who preys on children over the internet or a sexual predator. They do it for the purpose that gratifies them. In sexual offenses it's a psychological thing. It can't be changed. In dealing with meth, it's an easy way to make money and they're not going to change. So you either have to have them going in and out of court over and over and over and over and over and over, and spending all this time with judges, you know, and trials and all that. Or when you get one that is dealing meth in substantial quantities, you put him in prison and you put him there for a long time. Then you don't have to worry about that person anymore. So I really applaud Senator Flood for trying to get some permanent funding for this program, because I don't think there's any more important thing that you will do that a government does than provide for the public safety. That is a core value of government. And if you don't provide for the public safety, you're shirking your responsibility, because that is if not the most important, one of the most important functions of government. And we cannot depend on the federal government to do this. In fact, I'm appalled, frankly, or surprised that we've gotten 20 years of Edward Byrne money from the federal government, but I'll tell you it's going away. The lobbyists in Washington and the people that represent the National District Attorney Association would say it's going away and unless there's some surprising change of heart in the current administration or future administrations it looks like we're here to deal with methamphetamine and the various drugs at the state level. And so I support the bill and I think the steady source of funding is important. [LR11CA]

SENATOR McDONALD: Thank you. Do we have any comments? Senator Dierks. [LR11CA]

SENATOR DIERKS: Gary, is there any effort made on the part of Nebraskans to send requests to federal government agencies back there for the funding? Is that a... [LR11CA]

GARY LACEY: Oh yeah. I mean we're on it all the time. Senator Hagel and Senator Nelson and well, Tom Osborne was very helpful last year in making...because the Senate just blows it out of the water. They don't care about this Edward Byrne Memorial Fund. So it's really the House of Representatives that gets this back in every year. But every year it's been getting less and less and less. [LR11CA]

SENATOR DIERKS: Well, tell me something else. If you've get \$750,000 from this fund,

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

General Affairs Committee
February 26, 2007

does that do much more than scratch the surface or how effective is that? [LR11CA]

GARY LACEY: Well, it's going to help, because I think that the state and the cities are going to realize they're going to have to ante up a little bit more money. So if you get \$750,000 from the state and then Lincoln and Omaha can supplement their drug task forces then yeah, I think that that will...it might not be the \$3 million that we got from the feds, but it's... [LR11CA]

SENATOR DIERKS: It does more than scratch the surface then. [LR11CA]

GARY LACEY: Yeah, it does. And, you know, this is not just an Omaha and Lincoln thing. Lincoln gets, I think, \$350,000, but WING, the western Nebraska interception whatever it's called, that comprises all of the panhandle, they have been getting almost \$300,000. So it goes to these smaller communities. And I don't know, maybe Senator Erdman knows, he's from western Nebraska, that WING has done some good things out there and I would hate to see it be disbanded for lack of funds. And I know that Bayard and Scottsbluff and Gering and Mitchell don't have the money locally to come up with that amount of money. [LR11CA]

SENATOR DIERKS: Thank you. [LR11CA]

SENATOR McDONALD: Thank you. Senator Karpisek. [LR11CA]

SENATOR KARPISEK: Thank you. I agree with you, Mr. Lacey. How do we pay for these people being in jail for a long, long time? [LR11CA]

GARY LACEY: It's just the cost of doing business. I mean, how do you pay for anything? You have to say this is a priority. When I have moms and dads that are using meth and they leave their babies in an upstairs bedroom in the summertime with the door locked, and they stick, you know, a hairpin in a electrical outlet, I'd say we've got to protect the children. [LR11CA]

SENATOR KARPISEK: Could you argue that the money saved in going to court over and over, those sort of savings would save enough money to put them away? [LR11CA]

GARY LACEY: I don't know. I think you have to save the ones that actually are addicted to drugs and I think the recent establishment throughout the state of drug courts is helping to do that. And I think it's helping to do that because those drug courts make those people come to the judge every week and report. And they have to urinate in a bottle. They have to come in and urinate in a bottle--well, at least in Lincoln--three or four times a week. And it's going to happen. It's not going to be once this week and then once in a couple months. It's going to happen every week. So reporting to the judge and getting counseling and having to urinate in a bottle and make sure that the test, you

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

General Affairs Committee
February 26, 2007

know, doesn't come up positive is enough of a hammer to make some of these people change. If you're going to put them on probation and, you know, as great as probation officers are and as dedicated as they are, they just don't have the funds to ride herd on these yahoos (phonetic) that is needed to make them change. Drug addiction, like tobacco addiction, like any other kind, and alcohol addiction, is a true bad thing and it has to be dealt with on a very personal and expensive local level with lots of watching. And if you don't do that you might as well forget it, because if you're just going to put somebody on probation and say okay, do not sin anymore, and if you're going to test them once a month or something...you know, and some of the probations officers even establish the date in advance of when you're going to have to test. Well, that's not going to help. You have to be smarter than the people that you're trying to rehabilitate. And so... [LR11CA]

SENATOR KARPISEK: Thank you. I... [LR11CA]

GARY LACEY: ...otherwise, you know, the ones that are dealing drugs for money, they're doing it not because they're addicts, because they want to make money and they want to hurt our children. [LR11CA]

SENATOR KARPISEK: I've got an idea how to keep them out of jail, but I don't...we'll be hearing that on the Floor in a couple weeks. (Laughter) [LR11CA]

GARY LACEY: I suppose. I suppose. [LR11CA]

SENATOR KARPISEK: Thank you. [LR11CA]

SENATOR McDONALD: Thank you. Any other questions? Senator Preister. [LR11CA]

SENATOR PREISTER: Mr. Lacey, I agree with you that this is a core part of government, one of the basic things government should provide. The funds have been provided for 20 years from the federal government through the Byrne Foundation program grant. If in that 20 years the local communities have seen benefit and if it's a part of their core responsibility, why aren't they making up those funds? Why is it being... [LR11CA]

GARY LACEY: Well, I can only tell you about Lincoln and Lancaster County. We're up against the lid. You're telling us we can't spend our local tax dollars to do what you say that we should do. Our county government is very close to the lid and our city government, you know, they have extra tax money, but I don't know. You go talk to the mayor and I'm sure she'll tell you that they're \$9 million or something like that, short this year. And we have the fewest police officers per capita of any city like Lincoln throughout the United States. So I don't know. I mean, yeah, I think they should pony up some money, but I'm not saying they don't pony up money. You know, there are

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

General Affairs Committee
February 26, 2007

probably half a dozen officers in the local drug unit from the Lincoln Police Department. You know how much it costs to pay a police officer. I mean, they start out around \$35,000 a year and they get benefits, and they get cars, and they get uniforms. And the sheriff's department has a couple of people in the drug task force. The university has people in the task force, but they don't pay anything to have them in there. We've been using Byrne money to have the university have a police officer on the task force. Well, that's ridiculous for a institution that you appropriate how much money per biennium. They can't even offer one police officer to be in the local drug unit out of the, what, \$4 billion that they get every two years to run the university? Is it \$4 billion? I don't know. Something like that. So I don't know. [LR11CA]

SENATOR PREISTER: You answered the question. Thank you. [LR11CA]

SENATOR McDONALD: Thank you. Any other questions? I think not. Thank you for coming. [LR11CA]

GARY LACEY: Okay. [LR11CA]

SENATOR McDONALD: Welcome. [LR11CA]

RICK BOUCHER: Welcome. Senator McDonald, members of the committee, my name is Rick Boucher, B-o-u-c-h-e-r. I'm the registered lobbyist for the Nebraska Sheriff's Association. I've been asked to convey to you the statewide support for Senator Flood's LR11CA. Just last year...but certainly other sheriffs would be here if they could...Jim Lawson from Scotts Bluff County, Terry Wagner from Lancaster County. There was an entire group here last year that camped out towards the end of the appropriations day. Certainly I suggest that some of the speakers that will follow were here camped out also. Lynn Rex is here. Lynn has a wonderful presentation of information on contributions from the federal side. Chief Thoren also representing the Chiefs of Police. If there's anything I need to suggest to you it's that the sheriff's statewide would ask that you support this. We certainly thank Senator Flood. A permanent source of funding for these essential task forces where law enforcement gets together and certainly combine forces, funding, and resources, produces wonderful benefits. In response to Senator Dierks's question, we spent lots of time last year during the elections, both state and federal, visiting with the representatives from Washington D.C. Certainly Congressman Osborne. A lot of time was spent with Senator Ben Nelson and his staff as well as the rest. And they know that this is an essential sort of framework. Senator Preister, what I would tell you is, you know, in this bill also this money is being made available only for matching grants in that at least the pitch that we gave each of you last year was that the federal government was putting money in, the state was being asked to put in, and so were the local, whether county government or city government. I don't think any of them can go on their own. I think it is far too expensive a proposition, that it is spread out. Whether it's evenly or not, I think most jurisdictions would say they pledge officers or

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General Affairs Committee
February 26, 2007

they pledge money or both. So with that, Senator, I'd be glad to answer any questions you might have. All of the people that are coming are certainly familiar faces that spent lots and lots of time last year, besides Lynn, and besides the chief, and Lawson, and Bill Burgess from Fillmore County. Certainly, the Attorney General's Office camped out also with such an important endeavor to keep the task forces going. That we just spent a lot of time and effort and it certainly worked out. [LR11CA]

SENATOR McDONALD: Thank you. Senator Dierks. [LR11CA]

SENATOR DIERKS: Rick, with this matching funds, the matching funds that come from, say, my district, are those dollars collected from property taxes or how do they get those dollars to match? [LR11CA]

RICK BOUCHER: Well, I think at least in the group...for instance, and he mentioned WING, and Senator I don't know which group yours is in. But all of them and last year's information--and Lynn may well have that--we had it broken down for last year, as to which county, which city. Actually down to the dollars as they all evolved. And it came out, I think, roughly a third, a third, a third, and I think somewhere I can only think of a couple of jurisdictions, Senator--and when I say jurisdictions, counties--that didn't participate. The vast majority do and it's kind of a long laundry list. And I think everyone, either personnel or money, but I think, yes, there was some from property taxes. [LR11CA]

SENATOR DIERKS: Okay, thank you. [LR11CA]

SENATOR McDONALD: Thank you. Any other questions? I see none, thank you. [LR11CA]

RICK BOUCHER: Thank you. [LR11CA]

SENATOR McDONALD: Our next in support of LR11CA? Welcome. [LR11CA]

LARRY THOREN: (Exhibit 9) Good afternoon or good evening. Larry Thoren, T-h-o-r-e-n, testifying on behalf of the Police Chiefs Association of Nebraska. We support this initiative. You know, we all know that the distribution and use of illegal drugs is a serious problem in Nebraska. The federal funds available for task force have been decreasing. There's another 75 percent decrease scheduled for 2008, and these funds have constantly been threatened. The last several years we've had emergency meetings of task force boards, because funds are either going to be reduced or zeroed out. In central Nebraska, we have two task force. We have HIDTA, which is a tri-city task force, and HIDTA is a high-intensity trafficking area under the auspice of the U.S. Attorney's Office. The tri-city task force works on conspiracy cases. We also have CANDO, which is the--I think I have it right--the Compact to Arrest Narcotics Dealers

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

General Affairs Committee
February 26, 2007

and Offenders. That's a nine county area in central Nebraska including the tri-cities. The larger cities' dues is \$7,000 per year. The smaller cities pay half that amount. That's in addition to our personnel cost and equipment costs that we provide. CANDO receives about \$80,000 in federal funds through the state. The majority of that is to employ a state trooper to work the smaller communities--Harlan County, Minden, those that don't have investigative divisions--to address drug problems there. The cities, counties, and state work in concert towards this. The task force work in concert across this state. This is definitely in the best interest of public safety. The chiefs plead for a steady stream of funding to be able to provide these task force. As a member of the...for the last four years I was a member of the executive committee of the International Associations of Chiefs of Police and the legislative efforts by the IACP dealing with the Byrne funds and other crime prevention funds has been strong, and in many cases have been instrumental in the returning of the Byrne funds. This is not only a Nebraska problem. This is a problem across our country. What questions can I answer for you? [LR11CA]

SENATOR McDONALD: Thank you, Larry. Do we have questions? If not, thank you. [LR11CA]

LARRY THOREN: Thank you. [LR11CA]

SENATOR McDONALD: Our next testifier in support? Welcome. [LR11CA]

STEPHEN TELLATIN: Good afternoon, Senators. My name is Stephen, S-t-e-p-h-e-n, Tellatin, T-e-l-l-a-t-i-n. I'm deputy chief of police for the Fremont, Nebraska Police Department. I am also committee chairman for an ad hoc committee made up of the nine local task forces which are funded by the Byrne grants. In addition to that, I am the coordinator for three core drug task force, which is Fremont and Dodge County, Nebraska, Cuming County, Burt County, and the city of Blair. I know only too well the trials and tribulations of trying to maintain funding as I've been the coordinator and have been the grant administrator for the task force for the past nine years. We're starting our tenth year of operation this coming fall. I do appreciate the time, of course, that you senators give to this. I can go into a lot of statistics and things of that nature, which I'm sure you've all had presented to you before. Senator Flood, I think, was most succinct in presenting the need for this particular type of funding. Regardless of what form it may take, the local task forces need a funding stream funded by the state to continue their work in the counterdrug area. I understand, you know, the opposition to it. Ironically I was president of Keep Fremont Beautiful, a committee that I'm still a member of and have been for the past 20-some years. So I appreciate the environmental impact also. But as Senator Flood said, there are some environmental aspects to drug enforcement that we get into through the task forces. We spend quite a bit of money on training equipment and clean-up of clandestine labs. Fortunately, over the past couple of years that seems to have dwindled. I'd like to say it's because of our law enforcement efforts, but I think it's a combination of that and recent legislation that has stemmed the flow of

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

General Affairs Committee
February 26, 2007

ephedrine into the clandestine lab manufacturers. I guess with that said I'll make this very short and just ask for your support for this endeavor and appreciate your time. Thank you. [LR11CA]

SENATOR McDONALD: Thank you. Any questions? Seeing none, thank you. [LR11CA]

STEPHEN TELLATIN: Thank you. [LR11CA]

SENATOR McDONALD: Next testifier, please. Thank you. [LR11CA]

STEVE HECKER: Thank you, Senators. My name is Steve Hecker. I'm from Norfolk, Nebraska. I'm the SNARE drug task force grant administrator and coordinator. I'm also a captain on the Norfolk Police Department in Norfolk. I'll be very brief because I generally don't do presentations to anybody, but I just wanted to provide some information to you. Our drug task force is made up of the following counties that encompass our area. It includes the Nebraska State Patrol, the city of Norfolk, Madison County, Schuyler city, Colfax County, County of Stanton, Knox County, the city of Columbus, Platte County, Polk County, Nance County, city of Wayne, city of Pierce, and Antelope County. A significant area of northeast Nebraska that runs from the border of South Dakota all the way down to the Platte River. Our issues over the year primarily have been since the initiation of the Edward grant Byrnes (sic) is some consistency with our money that comes into our grant task force. And about 10 years ago we realized we were going to start losing funding at the federal level, which primarily funded all of the monies for our grant plus a 25 percent match that each of the agencies had to provide. We're still in that process. We've gone from \$600 million to zeroing out the accounts to \$500 million and a new redistribution of that money going to larger states and larger population-based areas. In doing that, we've recognized in the last 10 years we need to streamline and become more efficient as a task force. Several things we've done is we've eliminated any positions within our task force that are paid for by the grant from municipalities. We don't pay for any of our law enforcement officers. Our communities pay for them themselves. Since 1997, our agency has paid for two officers to fully staff that task force. With revenues being cut short now in Norfolk, we've eliminated one of those positions simply because of the revenue shortfalls. We've also eliminated three other positions on our police department. It's a significant issue for us. At the same time, we've limited our costs to supplies and operating expenses. We don't fund comped consultants. We don't travel. We don't fund training out of our task force and we do not fund equipment out of task force. We fund solely operating expenses out of an offsite that all the agencies can work out of. We fund a 20 hour part-time secretary to run our task force and the rest of our monies are spent on buys and criminal information. Last year, when the Legislature stepped up and filled some of the gaps that we had so we could maintain our funding, it broke down for us in this manner. We received \$42,360 from the Byrne funds. The state share that the Legislature provided us gave our SNARE task force and the counties I mentioned earlier \$31,770. Our 25 percent match of that

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

General Affairs Committee
February 26, 2007

was \$24,710. We didn't feel we could operate on that amount. Our membership actually contributes \$36,900 on top of the manpower that we issue in our cars, in our equipment and computers and things of this nature that our own agencies provide. But to be consistent with that, we don't know what we'll have this year. If we get zeroed out we may be able to operate for one year based on some forfeiture funds that we'd have that would be able to maintain our process. I just wanted to let you know the information I have on how we operate and how it doesn't operate. I will tell you this Legislature has done two things in taking drugs and fighting it at a local level or a state level in the last several years that were very beneficial. The registration of people who buy pseudoephedrine from our stores is significant and making businesses taking those off the store has been significant in reducing labs. Our task force in the last year has been going around to all the drug stores within our task force area identifying those repeat people who go to every drug store in our task force area who buy pseudoephedrine and tracking that and finding where those pills are going other than for colds and coughs. And it's been very advantageous for us and that's come out of this Legislature. And I appreciate your time. Thank you. [LR11CA]

SENATOR McDONALD: Thank you. Any questions? Seeing none, thank you for your testimony. Next testifier. Welcome. [LR11CA]

LYNNE REX: Hi, Senator. Thank you. Senator McDonald, members of the committee, my name is Lynn Rex representing the League of Nebraska Municipalities. We do strongly support LR11CA and we appreciate the fact that Senator Flood thought of this mechanism as an ongoing revenue stream. Last year when drug task forces across the state were literally in crisis because of federal cuts, he and the Attorney General and others worked very hard with many of you on this committee to make sure that funding would be restored out of the state General Fund, at least in part, so that those task forces will continue. Because otherwise, local law enforcement told us as did state officials as well, that as of last year it would have come to a halt. In other words, we would have had several of those drug forces simply collapse due to lack of funds. It's already been outlined to you that already there's significant local dollars going into this and that will continue no matter what. But the problem is they don't have enough leeway within their local budgets to make up that difference. And Senator Preister, I think you asked a very important question which is why can't they do more locally? We actually had an exemption, a bill in, last year before the Revenue Committee and that bill would have given an exemption for basically drug and meth type enforcement outside the lid, outside the levy, for this very reason. And we were told no in a very emphatic way by the Revenue Committee. So we are desperate in trying to get funds. First of all, I want to also emphasize as well that the Environmental Trust just does an outstanding job so this is no reflection on them either, but we certainly do appreciate Senator Flood coming up with an ongoing funding mechanism. In fact, the Appropriations Committee last year gave us a directive. The coalition of sheriffs, local law enforcement, State Patrol, the Attorney General and others working on this last year were basically told to come up

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

General Affairs Committee
February 26, 2007

with an ongoing revenue stream and not rely on it as part of what we think, too, Senator Preister, ought to be basically a core type appropriation. But indeed that does not seem to be the way in which the Appropriations Committee at least saw it last year. And I think that's why we so appreciate this measure. I'll also tell you I know that there were a number of proposals up with LB423 last year at the November 2006 ballot and all but two of them failed essentially. We are only allowed to use non-dues revenue to fight or support ballot questions. And so those funding mechanisms are fairly limited for us, but we do have, I think, a terrific network as do the police officers and others. And we work very hard to get this, if you would be kind enough to place this on General File, and if the Senators would be kind enough to place it on the ballot, we'd work very hard to get this passed. I do think that there is a tremendous connection here with the environment and that's meth lab clean-up. It is significant. And on a local level it is sometimes almost cost prohibitive. We've had localities tell us that they've had to wait a couple weeks before they can even go in and start the clean-up because they've got to wait until dollars come in. So I think that perhaps sometimes those of us that aren't really all that familiar--at least I should say myself--those of us, like me, that aren't familiar with what's going on while we're sleeping at night and what else is happening across the state, need to realize that these kinds of activities happen and we've got to support the people that are out there, people that really have put their lives on the line for us in doing these efforts. I do think the Environmental Trust...I think Senator Flood outlined the reasons for it, I think the Trust itself just does a phenomenal job. But again, we're here simply because we've been given the directive to find an ongoing revenue stream and we appreciate Senator Flood's insightfulness in coming up with this as an option for us. It's desperately needed. I'd be happy to answer any questions that you might have. [LR11CA]

SENATOR McDONALD: Thank you, Lynn. Questions for Lynn Rex? I see none, thank you. [LR11CA]

LYNNE REX: Thank you very much. Appreciate your time this afternoon. [LR11CA]

SENATOR McDONALD: Any others in support? We're now moving to opposition. Those that oppose would you please move forward. Welcome. [LR11CA]

MARK BROHMAN: (Exhibit 10) Thank you. Madam Chair and members of the committee, my name is Mark Brohman, that's spelled B-r-o-h-m-a-n, and I'm here as the executive director of the Nebraska Environmental Trust. You've heard a lot of things about the Trust today and so I'm going to go through and try to defend what we do. I'm passing around some statutory citations that give you some background, but the one thing I did want to read into the record is the intent of the Legislature for establishing the Environmental Trust. It says it's the intent of the Legislature to establish the Nebraska Environmental Trust for the purpose of conserving, enhancing, restoring the natural physical, and biological environment in Nebraska, including the air, land, water and

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

General Affairs Committee
February 26, 2007

surface water, flora and fauna, prairies and forests, wildlife and wildlife habitat, and natural areas of aesthetics or scenic value. The current and future well-being of the state and its citizens is vitally dependent upon safe and clean environment and requires a dynamic proactive approach to address environmental needs. The Trust shall complement existing governmental and private efforts by encouraging and leveraging the use of private resources on environmental needs with the greatest potential impact on future environmental quality in Nebraska. The Trust shall develop a long range environmental focus which encompasses the vision of all Nebraskans regarding the future of the environment and shall join public and private efforts in achieving the collective goals. So that's basically the intent of why the Trust was formed and you can see...and I was going to go through these, the handout on the front and back, 81-15, 175 and 176, but because of lack of time here I'm just going to point out Sections 2 on both of those. They lay out in very specific detail how the Trust is supposed to operate, how it's supposed to award the grants. And so there's a mechanism that was set up. This just wasn't thrown out helter skelter. This is a very well thought out program and system. And I've got a very dedicated board of 14 members. Nine of those are citizens that are appointed by the Governor, three from each congressional district, and of course, five agency directors. And every grant application is reviewed by technical committees and then it comes in at our staff at the Trust. It's a small staff of just five of us. We review those and then it goes in front of a subcommittee and then it goes to the full board. So each one of those grants is scored by the subcommittee and then eventually by the full board. And it's held up against all the other grants. So we only take the best of the best. The process takes over six months from the time that someone applies for money before they actually get the money. So we believe this process is very efficient and very effective. Over the past five years, the Trust has averaged a little over \$10 million a year from lottery proceeds. The Governor is proposing the Department of Natural Resources obtain \$300,000 a year from the Trust for the Water Resource Fund. You've heard about that that's going on this year. This proposal LR11CA would take an additional around \$800,000 annually. So between those two takes from the Trust this year we'd be looking at around \$1 million plus dollars coming out of our funds and that would be about 10 percent of the Environmental Trust current proceeds. This constitutional amendment proposes a transfer of 3 percent of the lottery proceeds that currently go into the Environmental Trust, which in essence, is about 6 percent of our budget, because we only get 44.5. So in essence it's 3 percent of the lottery proceeds, but it's about 6 percent of our entire budget. And permanent transfers from those funds would go to law enforcement like was discussed. This is a noble purpose, but we believe these are functions of the General Fund and that's been mentioned several times today. That crime is something we need to take care in this state. We realize it's a problem, but that's something that should be addressed with General Funds and not the funds that were provided for the Environmental Trust. If the Trust is compromised for these purposes, what about foster care, health care benefits for elderly or the children, early childhood development, benefits for veterans or families of active military personnel, K-12 education, the university and state college systems,

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

General Affairs Committee
February 26, 2007

building additional prisons and jails? Mr. Lacey mentioned that earlier today. We need more jails. We need more prisons. I think the figure I heard the other day was the state needs another prison for \$100 million. Lancaster County would like one that would be about \$90 million. So there's additional needs out there and they're going to keep coming and coming and coming. We would have to assume that if this effort was successful on a constitutional amendment that there would be others. And every year we would be over here fighting the next constitutional amendment for those purposes which I just mentioned above. We have provided over \$100 million and over 870 projects since the fund was started in 1994. For every \$3 requested, we're only able to pay out \$1 to approved and awarded grant recipients. So there's a tremendous need out there for these types of projects. Just some of the cities represented by committee members here today that have received grants directly include Wolbach, Wayne, Scribner, Hooper, Spalding, Crete, Sidney, Omaha, Ogallala, Neligh, Fairbury, and Hebron just to name a few. Besides those cities, grant recipients in these same districts that you all represent--just the districts in this room--those grant recipients include the Natural Resource Districts, universities and colleges, the Groundwater Foundation, Pheasants Forever, Audubon, Ducks Unlimited, Rainwater Joint Venture, Sandhills Task force, Nebraska Corn Growers Association, Center for Rural Affairs, Central Public Power and Irrigation District, the Game and Parks Commission, the Department of Environmental Quality, Prairie Plains Resource Institute, Ogallala Keith County Chamber, and many, many more. What happens when the lottery proceeds dry up? Some people think that that could happen. Senator McDonald asked earlier about what had been happening in the last few years and I do have those figures. And fortunately they've been going up the last couple years. In '03-04, our percentage was about \$10 million. In '04-05, it was about \$10.2 million. And then in the '05-06 was about \$12 million. Of course, the big powerball winners in Nebraska came in during that time period so that had a tremendous effect. We're hoping it continues to grow, but we don't know. What happens if casino gambling comes to be in Nebraska. We've seen other states where the scratch in the lottery ticket sales plummet as soon as casino gambling comes in. And so everyone keep saying that this is a source of revenue. It's there forever. It's not. Governor Nelson, when he established the lottery when he first came up with this concept, he thought maybe it would last a few years and it would be over. Some states have experienced that. It comes in, goes for five or ten years and slowly recycles out. So it's definitely not a funding source that you could hang your hat on for the next 10, 15, 20 years. It is something that would be a temporary fix potentially, but that's just some of the things that you need to look at when considering this. Let's see. Oh, I did talk to some of the folks involved with spending some of these monies, because when this idea or concept first came up I talked to Senator Flood and I said well, there would be a potential if there is truly environmental contamination occurring out there, that some of these groups, these task forces, could apply for Environmental Trust money. They could put a grant in just like everyone else and if it does truly prevent exposure to waters of the state, lakes, places like that where you've got these illegal dumped sites that if it's going to prohibit future degradation of the environment than that's definitely

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

General Affairs Committee
February 26, 2007

something that we would look at very strongly. But what I found is that most of these funds are used for salary and equipment and so we weren't able to sort of come to any agreement that they would be able to take an Environmental Trust grant and use them for the environmental purposes which we think would be appropriate, but they would be looking for salaries and equipment monies. And so unfortunately we weren't able to come to any agreement there. Now I do think that there's potential for these groups to come to the Environmental Trust with grants, these task forces across the state, and ask for money for clean-up and probably some training in the clean-up arena, but beyond that we probably wouldn't be able to fund with our current mission the types of things that are done with these task forces. So with that, my board respectfully asks the General Affairs Committee to indefinitely postpone or at least hold LR11CA in committee. Thank you. [LR11CA]

SENATOR McDONALD: Thank you, Mark. Any questions? Senator Preister. [LR11CA]

SENATOR PREISTER: Mark, your responsibility at the Trust is to try to maintain the integrity of the Trust so that the funds can go for the purposes originally intended and passed by the voters. Is that correct? [LR11CA]

MARK BROHMAN: That is correct. [LR11CA]

SENATOR PREISTER: And so it's in that capacity you're here today. [LR11CA]

MARK BROHMAN: Yes. [LR11CA]

SENATOR PREISTER: You're not saying that these purposes that Senator Flood is trying to get the money for are bad purposes, it's just an inappropriate source of funding for them. [LR11CA]

MARK BROHMAN: Exactly. We believe these purposes are of the highest order and that's why we believe General Funds should be appropriated for these purposes. But yes, we definitely agree that Senator Flood's concept of trying to get money and funds into these local task forces is noble and appropriate use of state monies. [LR11CA]

SENATOR PREISTER: And you have not seen this as the first time that there was an attempt to divert funds from the Trust. Is that right? [LR11CA]

MARK BROHMAN: That's correct. It's happened many times in the past and I'm sure it will continue. [LR11CA]

SENATOR PREISTER: So it's an ongoing challenge and perhaps a few of us in the Legislature who will remember those battles as term limits takes effect and perhaps fewer people to fight the battle. I would hope not, but it does concern me. [LR11CA]

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

General Affairs Committee
February 26, 2007

MARK BROHMAN: And Senator Flood did and I appreciate that he did mention at the beginning of the hearing that he told me he did not go and solicit folks to come in, nor did we. We did not go out and solicit and I think many of you have seen in the past when the Environmental Trust put the push out, put the call out, and said everyone come to Lincoln, you know, we had a lot of folks come down. But we didn't do that this time. We chose to come in and present our case and let this committee look at the issue and hopefully make a decision that's favorable to us. Otherwise, you know, it could end up on the ballot. If it ends up on the ballot there's going to be a lot of money spent on both sides. It won't be our Trust money, but it will be the groups that have gotten the beneficiaries of our funds will have to take their time and money and go out and fight the battle in the small towns. And you're going to have neighbors, one saying we need to fight meth. We need this. And the other guy saying well, look at the recycling trailer we bought last week. Look at the lake we restored that the kids are fishing at. You want to put this ahead of that? So I think you're going to get a lot of divisiveness in the communities when you put issues like this in front of them where they have to make a black white decision. [LR11CA]

SENATOR PREISTER: And it'll be the same municipalities who are seeking both grants. [LR11CA]

MARK BROHMAN: Exactly. [LR11CA]

SENATOR PREISTER: Thank you. [LR11CA]

SENATOR McDONALD: Any other questions? Is it more difficult now that this is in the constitution? More difficult to change rather than in state statute? [LR11CA]

MARK BROHMAN: I believe so. If not it would just be up to the 49 members of the Legislature on the Floor to decide we want to take these monies and divert them for this purpose. Now it goes in front of the people. So that's one thing that Senator Flood did do by putting this as a constitutional amendment. He's saying I do want to put it in front of the people, but I do think it will be very decisive. [LR11CA]

SENATOR McDONALD: Thank you, Mark. [LR11CA]

MARK BROHMAN: Thank you. [LR11CA]

SENATOR McDONALD: Any others in opposition? Welcome. [LR11CA]

STEVE DONOVAN: (Exhibit 11) Thank you, Senator McDonald and members of the committee. My name is Steve Donovan and I live near St. Paul, Nebraska. I am the manager of conservation programs for Ducks Unlimited in Nebraska. Ducks Unlimited is

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

General Affairs Committee
February 26, 2007

a not-for-profit conservation organization dedicated to conserving wetland habitats that benefit waterfowl and a variety of other wildlife species. Here in Nebraska, we have more than 10,000 members who support our conservation mission. LR11CA proposes to permanently change the distribution formula for lottery proceeds by significantly reducing the funds that are made available to the Nebraska Environmental Trust and diverting those funds to other purposes. The Nebraska Environmental Trust was created by the voters of Nebraska approximately 15 years ago. Funding from the Nebraska Environmental Trust is made available to a wide a variety of projects and very worthy goals that we heard Mark Brohman describe earlier. Over the years, hundreds of worthy projects have been accomplished through funding made available by the voters of Nebraska when they created the Nebraska Environmental Trust. However, even more worthy projects have been left unfunded because the Nebraska Environmental Trust simply does not have sufficient funds to complete all the worthy and important environmental needs that exist throughout the state. Indeed in the latest round of Trust proposals, there were many more worthy projects left unfunded than were actually funded simply because of limited financial resources. The road ahead will even be more difficult. The Governor has made it clear that he expects the Nebraska Environmental Trust to play a leading role in resolving the pressing water issues that face this state, including Nebraska's obligation to send Republican River water to our neighbors to the south. Resolving these water issues will cost hundreds of millions of dollars. Efforts to raid, reduce or direct Nebraska Environmental Trust dollars have occurred almost every year since the Trust was created, despite the original intent of the voters of this state. The voters have already spoken. LR11CA is yet another effort that would reduce funding available to the Trust. Now is not the time to reduce funding for important environmental and natural resource challenges that face Nebraska. In fact, we should be working on strategies to significantly increase funding made available to the Trust, particularly if we expect the Trust to tackle the huge, pressing water resource problems that face us today. Senator Flood and a couple other people that testified presented the idea that this proposal was related to environmental needs because of some of the meth labs that need to be cleaned up. And as Mark Brohman suggested, within the current structure of the Nebraska Environmental Trust, if the sheriff of Howard County or one of the other law enforcement people that were here today has such a situation they are free to submit a proposal today to the Nebraska Environmental Trust to secure funds to clean up meth labs that pose some sort of environmental issue. So I would suggest that that avenue is already open to those folks who have that pressing need. And finally in closing, I just want to urge you, the members of the General Affairs Committee, to reject this latest attempt to reduce Nebraska Environmental Trust funding. Thank you. [LR11CA]

SENATOR McDONALD: Thank you, Steve. Any questions for Steve? If not, thank you for coming. Any others that would like to oppose LR11CA? Looking for neutral testimony. [LR11CA]

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

General Affairs Committee
February 26, 2007

ROB SCHUPBACH: (Exhibit 12) My name is Rob Schupbach, R-o-b S-c-h-u-p-b-a-c-h. I live at 2304 South 24th Street in Lincoln. I typically or usually come and testify before the Natural Resources Committee about matters that have to do with clean water for cold water streams and have been a supporter of the Trust before that committee before. I've never had the occasion to talk about law enforcement, but I've made an observation. The first exhibit that I have for you is a copy from the Secretary of State's webpage. It says amendment 3 on it. And what this is, is it's the vote count from last November's election to increase the amount of state lottery proceeds to be distributed to the Compulsive Gambler's Assistance Fund. Senator McDonald, I believe you spoke about it earlier. This amendment failed 215,000 to 336,000. And as I was sitting listening to all the testimony, and my thought in bringing this to the attention of the committee is that this particular bill talks about reallocating state lottery proceeds to a different purpose just like the Compulsive Gamblers Assistance amendment did that failed. I believe that Nebraska has some type of law that talks about a three year rule before you can bring something up, and I don't practice law, I'm not an attorney, but it brings--I don't want to go off on an area that I'm not experienced in--but it brings forth to my way of thinking a question and that is that if this bill comes up before the voters there's risk. And the risk is real simple. Is the bill that's been discussed this afternoon going to go down 215,000 to 336,000 and a very important issue, drug enforcement money, be lost? And that's an uncertainty. It brings forth the question that I have and the question that I have is why does law enforcement have to seek a constitutional amendment to get funding for something that's as important as drug enforcement? In reality, this is a General Fund obligation of the state to protect the citizens. This is not something the...average citizen shouldn't have to expect a constitutional amendment to fund law enforcement to protect him from something. That's what you're paying your taxes for already. The state needs to step up and fund this type of thing with General Fund money, period. There is no reason at all that the citizens should have to have a constitutional amendment to protect themselves from something that's already a state obligation and something the state is already doing. And the second question is why take a risk with losing the funding? What are you going to do if the voters vote it down? When you have the opportunity to simply continue on and fund it through the General Fund obligation? The next question that I have for you is the brochures that I handed out come from the Upper Elkhorn NRD and I apologize that I only had 5 of them. There are two brochures. I asked for more and that's what showed up in the mail on Saturday so that's all I could do. But what has happened is the state has mandated that natural resource districts do something to improve or lower groundwater nitrates in their areas. The Upper Elkhorn NRD has identified the Verdigre Creek Watershed as a watershed. If you look at the brochure that has the blue printing on the front and the other one has the green, they've identified the Verdigre Creek Watershed and the Bazile Creek Watershed, commonly known in that area as the Verdigre Creek Watershed, is an area that has problem-high groundwater nitrate. The average groundwater nitrate in that watershed is, I believe, about 16.3 parts per million according to the brochure, and it's increasing at the rate of five parts per million per year. They've used Environmental

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Transcriber's Office

General Affairs Committee
February 26, 2007

Trust grant money and Nebraska Department of Natural Resources grant money to do a study that led to the brochure that identified the problem. The green brochure identifies what they're doing about it. And what they've done is they've gotten a grant. They've gotten grants from the federal Section 319, the environmental quality in the Nebraska Environmental Trust, and they've put together a cost-share program that is probably one of the most generous cost-share programs to work on groundwater nitrate problems in the state. The 319 money gives them the ability to offer a 60 percent cost-share with the landowner to improve. The Environmental Trust has put in money that enables them to take that 60 percent up to 90 percent. So they're offering a 90 percent cost-share to landowners that want to improve wells and septic tanks that are problematic in the area. That's a substantial cost-share in the area. In addition to that, they're offering \$6 an acre for nutrient management planning and \$4 an acre for irrigation management planning to landowners in this area to improve their groundwater nitrate problems. I talked to Dennis Schueth this morning who is the manager of the NRD and he wasn't able to come down here, but the message that he wanted me to convey to you was that there is no way that they have the funding in their budgets to come up with this kind of a generous cost-share plus \$10 an acre for land improvement and irrigation improvement if they didn't get money from the Environmental Trust. And the point being, the Environmental Trust does a lot of this kind of thing all over the state. I haven't had time and I don't have the information to round up every one of them, but if every other agency looks at the Environmental Trust as a cash cow and says well, we only want 2 percent, we only want 3 percent, pretty soon there's going to be no percent because it's all going to be going for many other things that are not the intent of the Legislature that Mark Brohman read to you. And I don't want to be redundant and read that again. But I'd like to close by asking a question. The drug enforcement funding is extremely important and it seems very odd to me that law enforcement should have to come to the Legislature and ask for a constitutional amendment to fund things that they're mandated to do anyway. The state and the local people should be paying for that. The Legislature has also mandated that the NRDs do something about their groundwater problems and I've got an example of what one NRD is doing with the Environmental Trust money and Department of Natural Resources commission money to do things like that. If everybody comes in and nickel and dimes those funds to death there will be no money for any of the intended purposes that the funds were created for. Any questions? [LR11CA]

SENATOR McDONALD: Any questions? I have a question. [LR11CA]

ROB SCHUPBACH: Yes [LR11CA]

SENATOR McDONALD: These numbers sadden me, because this is my amendment. [LR11CA]

ROB SCHUPBACH: I understand. [LR11CA]

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

General Affairs Committee
February 26, 2007

SENATOR McDONALD: My constitutional amendment. [LR11CA]

STEVE DONOVAN: I understand that. [LR11CA]

SENATOR McDONALD: And there wouldn't be any money for the Environmental Trust if it wasn't for gamblers and that's where the dollars come from anyway. [LR11CA]

ROB SCHUPBACH: I understand that. [LR11CA]

SENATOR McDONALD: And there's already in the provisions that they get money for the compulsive gambler. [LR11CA]

ROB SCHUPBACH: I understand that. What is interesting to me is that the voters turn down increasing the help for them and what I'm suggesting to you is if you run this through as a...if this bill becomes successful in becoming a law it still has to get voted on by the people. [LR11CA]

SENATOR McDONALD: Absolutely. [LR11CA]

ROB SCHUPBACH: Okay. And if the people turn around and say we don't like those meth dealers any better than we like those gamblers so we're not going to give them a dime, then where does the law enforcement purpose come? Where do they get the money that they need to do what they're supposed to do in the first place? [LR11CA]

SENATOR McDONALD: Then they have to look elsewhere just like we have to look elsewhere for money now, too. [LR11CA]

ROB SCHUPBACH: Oh I know. But what I'm saying is it's probably more realistic to look to the state General Fund now. If I can believe what I read in the World-Herald on Sunday, the state is looking at an excess projection for revenue somewhere in the \$77 million or \$87 million range. If that's true, maybe there's some money out there nobody's talking about. But back to my original question. Why should the taxpayers have to vote on a constitutional amendment to fund law enforcement that...isn't that what government is supposed to be doing in the first place? [LR11CA]

SENATOR McDONALD: Thank you. Any other questions? [LR11CA]

ROB SCHUPBACH: Thank you. [LR11CA]

SENATOR McDONALD: Thank you. Is that our last neutral testifier? Then I think that closes the hearing for LR11CA. Now we'll move on to LB544. Welcome, Senator Synowiecki. [LB544]

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

General Affairs Committee
February 26, 2007

SENATOR SYNOWIECKI: Thank you, Senator McDonald. Thank you, Senator Karpisek. [LB544]

SENATOR McDONALD: [LB544]

SENATOR SYNOWIECKI: (Exhibits 12 and 13) Good afternoon, Senator McDonald, members of the General Affairs Committee. My name is John Synowiecki. I represent District 7 here in the Legislature and I bring LB544 for your consideration. It's a bill that would allow a wholesaler or manufacturer to extend credit to a retailer for the purchase of beer. Currently, retailers are required by law to purchase this particular product line beer on essentially a C.O.D. basis, cash on delivery. The C.O.D requirement is not consistently applied to all liquor as would spirits. Retailers are allowed a 30-day credit line for these products. And I'm not aware of another instance where the state requires a cash basis transaction in private sector business commerce activity. According to the Liquor Control Commission there are 20 states that allow the extension of credit to retailers. In the first session of the 99th Legislature, I introduced LB702. It's a bill that amended the Nebraska Liquor Control Act to allow retailers to utilize business credit cards for the purchase of beer. It seemed to me that credit card utilization by retailers would offer wholesalers enhanced security relative to the assurance of the financial transaction. Business checks, for example, which were allowed under the rule, do not carry the same level of payment guarantee as a credit card for the wholesaler. After introduction of LB702, the Liquor Control Commission undertook to change and/or amend rules under the Liquor Control Act to allow retailers to the ability to utilize business credit cards for beer purchases. After fulfilling all the procedural requirements for rule change, including the public hearing on the matter, the Liquor Control Commission in November 2005 amended the licensee's operations rule under Chapter 6 to allow retailers the discretion to use credit card for beer purchases from wholesalers. Subsequent to this rule change, it has come to my attention that thus far wholesalers are not extending an opportunity to retailers to purchase this product with credit cards, essentially depriving retailers of a payment avenue under available rule. Upon learning of the wholesaler's lack of extension of payment options to the retailers, I felt it quite logical and appropriate out of a sense of fairness to reexamine our statutes relative to this issue. Wholesalers in Nebraska enjoy the protection of law relative to cash transactions and yet, they elect to not extend a lawful payment option to Nebraska retailers. Senator McDonald, what I would request is that I have not...I had a meeting with one of the largest wholesaler operations in the state last week and that unfortunately had to be cancelled during a recess day. I would make a specific request to the committee that you hold this bill for now and give me an opportunity to dialogue with the wholesalers so that we can arrive, perhaps, at some type of agreement or at least for me to learn to educate myself on why the credit card is not being extended the opportunity to the retailers. From there, we can proceed with the bill perhaps, and advance the bill onto the Floor, or if the wholesalers want to work with the retailer community in offering the credit card option, which is currently available under rule, we

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

General Affairs Committee
February 26, 2007

could proceed that way. So I would ask that you hold the bill and help me endeavor to communicate with the wholesaler community. [LB544]

SENATOR McDONALD: Thank you, Senator Synowiecki. Any questions? Senator Preister. [LB544]

SENATOR PREISTER: Two things come to mind. One, why is there the differentiation between hard liquor that you can do for credit and beer that you can't do for credit, if you know, or maybe somebody later can answer that? [LB544]

SENATOR SYNOWIECKI: Senator Preister, that's probably an excellent question. I don't know. The chair of the Liquor Control Commission is here. He perhaps can give you historical perspective as to why that is. [LB544]

SENATOR PREISTER: Okay. And my second question may be answered by somebody else too, but that is isn't this consistent with the way you have to sell beer or alcohol to the customer? It's illegal to buy alcohol on credit so isn't that some consistency there and maybe Hobie can answer that, too. [LB544]

SENATOR SYNOWIECKI: Actually I think at the consumer level I think you can use a credit card. Maybe I'm wrong. Again, the Liquor Control Commission is here. Perhaps they can clear that up. And retailers now can utilize a credit card under rule for purchases. And what it does, Don, it gives them the opportunity to ensure the payment to the wholesaler cash, but yet gives them an opportunity in endeavoring to run their businesses. If you have air conditioning units go out in the middle of July, you might have to perhaps...if you have a sudden unplanned, huge impact on your business operations it gives you an opportunity to offset some of the demands on the expenditure side of your business and to kind of finance that a bit for at least a short time. [LB544]

SENATOR PREISTER: Okay, thank you. [LB544]

SENATOR McDONALD: Thank you, Senator Synowiecki. Any other questions? Are you planning to stay to close? [LB544]

SENATOR SYNOWIECKI: Yeah, I'll stick around. [LB544]

SENATOR McDONALD: All right. Thank you. [LB544]

SENATOR SYNOWIECKI: Thanks. [LB544]

SENATOR McDONALD: Our first testifier in support? Welcome. [LB544]

JIM MOYLAN: Madam Chairman and members of the committee, I'm Jim Moylan

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

General Affairs Committee
February 26, 2007

representing the Nebraska Licensed Beverage Association, that's M-o-y-l-a-n. That's the state association of liquor retailers. We're here to support this bill and we have no objections if the Senator can work out some issues, you know? I was going to answer Senator Preister's question. I happen to be around here when this change was made in 1967. Originally, the 70-year-old act was, of course, when they were reclassifying liquors. It's 70 years old this year. It was originally 30 days for beer and liquor, and in 1967--and I remember the fight all the wholesalers were not in agreement on it, but it did pass--making the cash beer law, but not the spirits law. Now I didn't represent any of the interests at the time, but I did have another bill in that committee at that time. So that's how the differentiation that came. I think that's right, isn't it? Yeah, all right. So we would support it. You know, the credit card opinion is there from Terry Shaff (phonetic). It's the same as cash and we would recommend that you work with Senator Synowiecki, and whatever he can work out we'll be satisfied with. We'd like to see the credit card operation go. Thank you. [LB544]

SENATOR McDONALD: Thank you. Any questions? I see none, thank you. Is that the last of our support testimony? Seeing none, we'll move to opposition. First testifier, please. Welcome. [LB544]

BILL BOYD: Thank you, Chairwoman McDonald and members of the General Affairs Committee. First off, I'd like to take this opportunity to say that we would be...I am Bill Boyd and it's spelled B-o-y-d. I'm a beer distributor in Grand Island, Nebraska, and I'm representing my company which is Nebraskaland Distributors and also members of the Associated Beverage Distributors of Nebraska which does represent all the beer wholesalers in the state of Nebraska. We oppose LB544, a bill to repeal the cash law in the sale of beer products to retailers. I will say at this point we are more than interested in talking to Senator Synowiecki and making sure that we work with him and understand all the different avenues and concepts going on in this particular area. I'm going to try to talk to the cash law and what it means to our industry and try to explain it as best we can, and how our business models operate as wholesalers in the state of Nebraska, and how we collect the tax money for the state of Nebraska. So I'm going to just kind of continue on, but I did want to respond to the senator and tell him that we are more than happy to work with him over this one. The cash law for beer has been around since the repeal of prohibition, is current law in 30 states including the state of Nebraska. It did come into effect in the state of Nebraska, as the gentleman before me spoke to, in 1967. I can't tell you exactly the reasons for that coming into law. I've been in the business now for 30 years and been a wholesaler in the state for that many. So I came in in '77 and the cash law was active at that time. It is a key component to the three-tier system which is the regulatory structure for the production, distribution, and sale of alcohol throughout the country. I realize that prohibition was a long time ago, but the reasons for initially adopting the cash law and the reasons why it has worked so well for decades are still valid today. First, the cash law facilitates the collection of the state's alcohol excise tax. On or before the 25th day of each calendar month, all distributors

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

General Affairs Committee
February 26, 2007

must file a report with the commission showing the total amount of alcohol in gallons shipped to him by all manufacturers during the preceding month. Beer distributors are liable for that tax as soon as the beer enters our warehouses, whereas the wine and spirits distributors--and this is the difference between the wine and spirits and the beer wholesalers--are not liable for that tax until it is sold and physically leaves their warehouses. The cash law enables distributors to receive cash upon delivery and then remit the excise taxes to the state without having to finance the payment on these taxes. Last year, beer distributors remitted beer excise revenues to the state of Nebraska in approximately \$13,839,000 to the state in a timely fashion. The different timing of the tax liabilities explain in part why the payment for beer is C.O.D. and why wine and spirits have 30-day credit. Second, the cash law is an early warning mechanism to spot financial problems with licensees who may be tempted to consider unwise practices. I have a retailer who told me that paying cash actually helped him become a better businessman than probably would have been if it had not been in existence, because he was undercapitalized when he got into the business. The effect of having to pay cash upon delivery requires the retailer to have some sufficient capital to open and maintain his business. Third, the cash law prevents retailers from overbuying. Beer is a perishable and if it goes out of code, many retailers might be induced to engage in unhealthy drink promotions or in other avenues to get rid of the beer before it goes out of date. In that particular sense, we do protect these retailers and we do monitor the dates on our product, but we feel very strongly that beer has a turn several times greater than wine and spirits. We produce almost ten times the revenue to the state of Nebraska as they do in wine and spirits, and--or I hope I'm saying this right, because I hope that I'm giving you the correct information--I know at least the number of turns through that retailer is greater than six, up to 10 times that of spirits. And that means that that bottle of liquor may sit on his shelf for a while, whereas that beer product that we deliver on a daily, weekly basis to our customers is normally turned within that week to 12 days from when we deliver it to them. So that money is generating working capital for them at all times. The concern that we have with many of our retail customers, and I'm not sure that this is the reason that this law was brought into effect in 1967, is that there's a level playing field right now in that all of our customers whether they are our largest one--Wal-Mart--or smallest one, a mom and pop on a store pays us cash when we deliver the beer, it creates an equal playing field for all the players. It doesn't give one side more opportunities than the other. Obviously, good credit is very important to all of us, and we are of some concern that size could create credit issues for some of our smaller retailers and therefore unlevel the playing field for them. Finally, Senator Synowiecki brought up the cash law with payments using credit cards. We did not oppose the passage of the rule which authorized credit cards as an acceptable form of payment between retailer and distributor. The hard business facts are, however, at this time the transaction costs of credit cards are the equivalent to the wholesalers' margin when it's all said and done. Today it's not economically feasible to offer the payment method. It's just that simple. We had hoped the Legislature would never mandate that small businesses must offer a service that puts them out of

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

General Affairs Committee
February 26, 2007

business. That doesn't make any sense to anybody. Today, however, retailers have several alternatives to payment of check or currency. We know there are plenty of times that some retailers cannot be present when we make our deliveries and one of them that has been used and used very effectively is the EFT form of payment. And that is done simply by them paying us. We have access through the electronic business to authorize their accounts and so that form of method is somewhat painless for everyone involved and works very handily. Another thing to keep in mind is that we are talking about credit card payment between the wholesaler and a retailer and not a consumer to a retailer. My suppliers don't offer me the opportunity to pay by credit card nor does any of my petroleum vendors, and I buy plenty of fuel to have my trucks move around the state, nor most of the people that supply me with many of the things that I buy from the general area. The reason behind that is that there are several things going on with the credit card companies right now and their excessive credit costs in using these cards. And it could be in the form of favors that they are in turn passing onto the credit card holder, whether it's mileage for trips or something like that. The truth of the matter is that everything comes with a price tag and that in most cases we, the consuming public, are paying those fees. It's not just a freebie. For these reasons, I urge the committee to retain the cash law which has worked well for all parties for decades. I also ask for your patience on payment by credit card. That is currently not a viable option for us because of the high transaction costs, but we submit that is not a good option for the state in ensuring the timely continued collection of the alcohol excise revenue. I appreciate your attention and will attempt to answer any questions now. [LB544]

SENATOR McDONALD: Any questions? Senator Erdman. [LB544]

SENATOR ERDMAN: So as I understand the dilemma that we have here, if a individual purchases beer from you... [LB544]

BILL BOYD: Yes. [LB544]

SENATOR ERDMAN: ...and has a line of credit with the bank and writes you a check on that account, that's okay. [LB544]

BILL BOYD: Yes. [LB544]

SENATOR ERDMAN: Even though he's technically doing it under credit. The bank is going to stand behind that note. [LB544]

BILL BOYD: Yes, yes. In most cases. [LB544]

SENATOR ERDMAN: They should if they're a decent bank. [LB544]

BILL BOYD: In the 30 years, I've only probably had a couple checks that have actually

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

General Affairs Committee
February 26, 2007

had to... [LB544]

SENATOR ERDMAN: If it's a decent bank and if you're managing your money correctly. Let me clarify that. [LB544]

BILL BOYD: Yes. [LB544]

SENATOR ERDMAN: So if a retailer would present you with a credit card check, would that be sufficient as well? And maybe I'll need to clarify. You can get checks that will give you a zero percent interest, no interest, or low interest rate for a period. It is a check that you sign like any other check. You give it to whoever you plan to purchase the item from. They cash it like it's a check. Would you consider that to be an acceptable... [LB544]

BILL BOYD: Well, one of the requirements that we have in receiving any check payment is that it has to have the name of the account on it. It must be identifiable as from that account. It cannot be private owner's account paying me the check. To be honest... [LB544]

SENATOR ERDMAN: So if it met those requirements...and the example I'll give you is I go to remodel my house and I have a credit card with ABC credit card company and they say we'll give you 3 percent interest for the life of the balance or I can try to go get a home equity line for 8 percent and it's going to print my name on it. And I go to the home store and sign it. It's got the name of the person, assuming it would be a corporate card, they would do the same thing. That would be acceptable as well. [LB544]

BILL BOYD: To my knowledge, yes, that would work. If it was a check. Once again, it has no transaction fee ties back to the distributor. Our business model is set up to work under the cash provisions of this business and that is probably one of the key things that we are trying to defend, because if this thing changed with what's going on right now, a lot of things would have to change including how we would be able to submit our timely payments to the state of Nebraska because there's a lot of this money, this \$13,900,000, is not out of my warehouse yet. It's still sitting there and no one has paid me for it. I have to, as a business, continue to try to sell it to obviously cover my obligations to the state. [LB544]

SENATOR ERDMAN: And then I guess the next logical question then would be if a retailer presents you with a debit card at the time of purchase is that acceptable? [LB544]

BILL BOYD: One of the problems I have in my particular business, and I'm one of the smaller medium-sized wholesalers in the state of Nebraska, is our trucks are not set up

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

General Affairs Committee
February 26, 2007

to be able to accept credit cards. We travel through... [LB544]

SENATOR ERDMAN: But would, in your opinion, would that be acceptable based on the regs that I see here? [LB544]

BILL BOYD: A debit card? [LB544]

SENATOR ERDMAN: Is that a cash equivalent? [LB544]

BILL BOYD: I'm not equipped to take any plastic right now. [LB544]

SENATOR ERDMAN: Okay. I'll ask Mary then when she comes up. [LB544]

BILL BOYD: Okay. [LB544]

SENATOR McDONALD: Any other questions? I have a couple of questions? Number one, so how long does beer last? [LB544]

BILL BOYD: Most comes with a expiration date on it anywhere from...let's just say 120 days is what most of them come with. So that's when it's produced which means it's put into a can or a keg and then it's shipped from those sites. Most cases in the form of my Miller products, they're coming from Milwaukee or Texas. My Coors products come in out of Golden, Colorado. Some are coming out of Canada now since they're combination with Molson. But then all my other suppliers, which are several, I've got over 20-some suppliers. They come from all over the United States. But most of them come with 120 days. There are some products, especially the import brands that will come with a little longer shelf life than that. [LB544]

SENATOR McDONALD: So if you drink expired beer does it just taste bad or...tell me what happens. [LB544]

BILL BOYD: It is a food product. It does change its taste. Beer is made with yeast and it's activated which produces the alcohol and the carbon dioxide in the product. Most of them are filtered or pasteurized which will kill that, but sometimes you will go into second fermentation. I'm not really the expert in that particular area, but I do know that it is a food product. And contractually, with my suppliers, I am responsible to make sure that that doesn't happen, that that product isn't out there getting old. [LB544]

SENATOR McDONALD: So does it just taste bad? [LB544]

BILL BOYD: It will change taste, yes. [LB544]

SENATOR McDONALD: My other question was--and Erdman had one about the debit

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

General Affairs Committee
February 26, 2007

card--if you had to go to the credit card, I mean, if it was passed and you had to take it on credit, and you talk about the transaction fees, I remember--and I don't see many gas stations doing it now--but they would have a cash price and a credit card price. Would that be a viable option, because you talked about the fees, to go that or is that a thing of the past? [LB544]

BILL BOYD: Yeah, that's probably...and the beer industry because we're such a highly regulated business, to be quite honest, the way we pay our taxes is our suppliers send the state of Nebraska the information of what comes into my warehouse and then we pay taxes off of it. We cannot adjust our price from one retailer to the next. So if I'm selling it for \$15 to Jim's Tavern, I've got to sell it for \$15 to Wal-Mart and that's just the law of the land. And so we try to run our businesses within the laws of Nebraska and follow them very closely. And the credit cards have fought this cash price credit price, and right now there's legislation out there--and I believe Mary was going to speak to it so I may be stealing some of her thunder--that they're trying to change this because of these transaction fee costs that are involved with credit cards. My supplier of my petroleum that I buy to put diesel in my trucks, I was using credit cards. He asked me not to. He wanted to start a personal account because he'd much rather get my check and not pay the banks a transaction fee to take that type of credit card. And I understand his thoughts now that I've gotten more involved in them and understand them better myself. [LB544]

SENATOR McDONALD: And my last question. In say, a bar would purchase beer from you using a credit card and the bar filed bankruptcy. Even though you got paid from the credit card company, would--and that would be an unsecured debt with the bankruptcy because it's a credit card company--would the credit card company come back to you to collect that money if they didn't pay the credit card bill? [LB544]

BILL BOYD: I don't know. I don't know. I believe that might be part of their contractual obligations to that bar that they'll cover all credit payment, and then they'll probably go after them. I don't really know the answer to that one. I'm sorry. [LB544]

SENATOR McDONALD: Okay. Any other questions? All right. Thank you. [LB544]

BILL BOYD: Thank you very much. [LB544]

SENATOR McDONALD: Next testifier in opposition. [LB544]

JOHN FORDHAM: I'm in opposition. [LB544]

SENATOR McDONALD: All right. Come forward. We're taking opposing. [LB544]

JOHN FORDHAM: I was all prepared to say good afternoon, but I think we're almost at

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

General Affairs Committee
February 26, 2007

good evening. So we'll keep it short. [LB544]

SENATOR McDONALD: Welcome. [LB544]

JOHN FORDHAM: So we'll keep it short. Madam Chairwoman, members of the committee, my name is John Fordham, F-o-r-d-h-a-m. I'm a wine, liquor, and beer distributor here located in Lincoln, Nebraska, and I am here in opposition to this bill to repeal the cash law. To us, this is really an issue of fiscal responsibility and temperance, truly one that we have an obligation to the state. As Mr. Boyd indicated in his testimony, almost \$14 million we paid annually for the privilege to do business in the state of Nebraska. The cash law has been in effect for over 50 years and it works. And it's consistent with the regulatory environment that we operate in every day. And we all know that the beer business and the alcohol beverage business is a very regulated business no matter where you go across the United States. So it's very consistent, we feel, with the environment that we're operating in. For your information, we actually pay \$10 a barrel in state beer tax and that's excluding any federal state excise tax. That's the highest in the region. And the Nebraska beer wholesalers have an impeccable record for paying that tax every month by the 25th in full to the state. To modify this law, to create a credit law would impair our continued ability to meet that financial obligation to the state. At a \$1,200,000 a month that our members of our association pay in state taxes and then to defer that amount another 30 days would critically impair our ability to make that payment, and we think that's a significant issue at hand. The ripple effect even following the financial piece is big just because let's say we allow a major retailer of ours, we extend them credit, and they're located outside either my market or even outside the state, and I'm extending credit, how do I recover those funds? Because now if I'm extending credit from somebody who's located outside the state, the difficulty is even more enhanced in my ability to recover those dollars. And then once again, how do I pay my state obligation for the product that was shipped into my warehouse before I'd even sold it? So I mean it's a big piece of our business and it really hampers our ability to operate on a day-to-day basis. We also think that there's a temperance issue in the sense that the cash law allows us to identify marginal operators right away. For us to extend a 30-day credit limit, for example, we may not know that they're in trouble for four or five weeks. Today we can identify whether they're in trouble in two or three days. And that allows us to manage our business and protect our business from the marginal operators. Senator Synowiecki--I tried to get that right, because it think Bill messed it a couple times... [LB544]

SENATOR SYNOWIECKI: You did a lot better than Bill. (Laughter) [LB544]

BILL BOYD: I apologize. [LB544]

JOHN FORDHAM: Senator Synowiecki had discussed the credit card issue and as Bill Boyd indicated in his testimony, it is available, but it doesn't make business sense for us

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Transcriber's Office

General Affairs Committee
February 26, 2007

because of the high transaction cost. Our research that we have found nobody in the United States accepts credit cards. And it's truly because of the prohibitive transactional costs that are associated with doing business through a credit card. Senator McDonald asked the question, well, can't you just ratchet up the price for those who wish to use a credit card as their selected method of payment? By contract with the credit card company you cannot do that. They prohibit that. And so that would have been an option, but if you're going to do business with the credit card company they say no. So that's not an option to us. Our customers do have options. They can either, as Bill indicated before, it's either cash or they can use a check. They can use a money order or EFT. Five years ago I had zero EFT customers and now 22 percent of my customers are EFT, and that's fine. I think also when we're looking at credit cards it's discussed that hey, you know what? We operate in a credit card society. Everything is paid by credit card. I think that's true. I'm not sure it's good. I think people in the United States, the U.S. consumer is carrying a heavier debt than any time ever in history and I'm not sure that's so great for our economy. But setting that aside, I think we have to differentiate what the relationship is for those people using the credit card. The relationship there is between a consumer and a retailer. And yes, credit cards are prevalent in that relationship. But in the relationship between a wholesale business and a retail business, it's the exception, because the margins are different. And as Bill Boyd indicated before, your local--and I buy a lot of fuel as well--your local petroleum vendor is not going to give you an option to buy a credit card. My family is also in the clothing business and we don't have an option to pay our vendors, as a retailer, we don't have an opportunity to buy from our vendors by credit card. It's the exception. It's not done. And we, in the beer business, don't have an opportunity to buy from our suppliers by credit card. So yes, although credit cards are prevalent in the retail consumer relationship, it's not in the retail wholesale relationship, and that's primarily because of the transaction costs that are associated with it. So hopefully I kind of addressed some questions that were discussed during Mr. Boyd's testimony. So I didn't mean to get off base too far, but for those particular reasons I hope you will kill this bill and if you have any questions I'll take them now. [LB544]

SENATOR McDONALD: Any questions? Senator Janssen. [LB544]

SENATOR JANSSEN: Yeah. I'm sorry. I got in on this discussion late, but what Senator Synowiecki, the intent of his bill is for a wholesale beer distributor to extend credit to a licensee? Is that correct? [LB544]

JOHN FORDHAM: Yes, sir. [LB544]

SENATOR JANSSEN: How many days? [LB544]

JOHN FORDHAM: I don't believe that's been addressed in the bill. [LB544]

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

General Affairs Committee
February 26, 2007

SENATOR JANSSEN: Okay. All right. Can credit be extended on spirits? [LB544]

JOHN FORDHAM: Yes, sir. Thirty days. [LB544]

SENATOR JANSSEN: 30 days? [LB544]

JOHN FORDHAM: Yes, sir. [LB544]

SENATOR JANSSEN: Has there been a problem with that? [LB544]

JOHN FORDHAM: I don't know. In our particular business--I'm also a liquor, wine and spirits distributor--I will tell you that my occasion of bad debt is higher in relationship to my beer sales because of the credit law. So it's created some issues for me there. [LB544]

SENATOR JANSSEN: What you're telling me is that you have a harder time collecting on the spirits now because credit can be extended? [LB544]

JOHN FORDHAM: Yes, sir. [LB544]

SENATOR JANSSEN: Has credit always been extended for 30 days ever since the repeal of prohibition? Is that correct? [LB544]

JOHN FORDHAM: Yes, sir. I believe since 1967. [LB544]

SENATOR JANSSEN: And at that time, was cash only on beer instituted in this state? Or was it nationally? [LB544]

JOHN FORDHAM: Well, we had a pseudo-historian here earlier who indicated... [LB544]

SENATOR JANSSEN: Well, I'm sorry. I... [LB544]

JOHN FORDHAM: No, no, no, I was just looking to see if he was still here. At one point I believe they had tried to get established credit for both, but when it was all flushed out it was credit for wine and liquor, 30 days cash law on beer. [LB544]

SENATOR JANSSEN: Is that nationally or just this state? [LB544]

JOHN FORDHAM: That is the state of Nebraska. Thirty states have cash law in the United States. [LB544]

SENATOR JANSSEN: On beer. [LB544]

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

General Affairs Committee
February 26, 2007

JOHN FORDHAM: On beer. [LB544]

SENATOR JANSSEN: Okay. How about on spirits? [LB544]

JOHN FORDHAM: I can't answer that question, sir. [LB544]

SENATOR JANSSEN: Oh you can't. Okay. I'm sorry for coming late, Madam Chairman, but I was on the same type of situation over in Banking. [LB544]

SENATOR McDONALD: Okay. [LB544]

JOHN FORDHAM: And just to elaborate, the difference between wine and liquor and beer, wine and liquor being 30 days, as a wine and liquor wholesaler I don't pay the state tax on that until I sell it. On beer, I pay the state tax as I receive it from my manufacturer. [LB544]

SENATOR JANSSEN: Okay. [LB544]

JOHN FORDHAM: So there's a significant lag time. And by instituting a credit law it would dramatically worsen that situation for me in terms of my ability to pay those taxes. [LB544]

SENATOR JANSSEN: And where are you located at? [LB544]

JOHN FORDHAM: In Lincoln, Nebraska. [LB544]

SENATOR JANSSEN: You're in Lincoln. [LB544]

JOHN FORDHAM: Yes, sir. [LB544]

SENATOR JANSSEN: Okay. All right. Thank you. [LB544]

JOHN FORDHAM: You're welcome. [LB544]

SENATOR McDONALD: Any other questions? Seeing none, thank you. [LB544]

JOHN FORDHAM: Thank you for your time. [LB544]

SENATOR McDONALD: Any other testifiers in opposition? Are your our last testifier in opposition? [LB544]

MARY CAMPBELL: Yes. [LB544]

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

General Affairs Committee
February 26, 2007

SENATOR McDONALD: Okay. Welcome. [LB544]

MARY CAMPBELL: (Exhibit 14) Madam Chairman, members of the committee, my name is Mary Campbell, C-a-m-p-b-e-l-l, and I'm representing the Associated Beverage Distributors of Nebraska. Still getting used to our new name. I just want to touch on a couple of things that maybe weren't mentioned by the gentlemen ahead of me. Mr. Fordham talked about how we love our credit cards and that we are a credit card society. And we love our freebies. We love the frequent flyer miles and the rewards that come with the use of those cards. But in point of fact, we know they aren't free. That all of us are paying more for all the goods and services that we purchase, because into the price of those goods and services has been built these transaction fees which are very high. And that's really what is the crux of the matter here and why the beer wholesalers did not jump at the chance when the rule was enacted. We did more research after the enactment of the rule and we're just really appalled to find out how expensive it is and how it pretty nearly matched up with margin. We'd much rather give our margin back to our employees in the form of increased benefits and salaries. We'd much rather give it back to increasing infrastructure of our operations in the state. Much rather give it in the philanthropies and the enforcement against minors' use of our products and so forth, rather than giving it to some out of state bank corporation who is exacting those fees. And we're not alone in this certainly. And our good friends with the convenience store and petroleum marketers frequently run articles about this dilemma of which I'm sharing with you. They estimate that 85 percent of their store profits go to these transaction fees. And the article that you're receiving lays it out and we're not alone in this by any means, we're just ones that are resisting getting into it for the reasons that others have learned the hard way. One thing when we said to Senator Synowiecki give us some time on this, I would note that in this article in the last paragraph it talks about something called the merchant's payments coalition. This is actions federally. It's made up of trade associations representing retailers, restaurants, supermarkets, drug stores, convenience stores, gas stations, online merchants, anybody basically who takes credit and debit cards. They're very concerned about the interchange fees and they're trying, as a coalition federally, to see if some reality can return to this means of doing business in the country. Another point I would go to that the gentlemen didn't mention is just in talking about that, well you just raise your prices then and absorb it. It's the cost of doing business. What distinguishes beer from toothpaste, cereal, meat, any other products in a grocery store is that half the price of a beer is excise and other taxes. So before we can even begin--and I have to be careful here because we do not discuss pricing obviously--but before you can even begin to deal with that dilemma, you've lost your wiggle room and you've lost it to the payment of excises to the federal government and to the state government. And we're not complaining about those today, but we're saying that it does greatly affect your ability working with that thin margin to make any price adjustments to try to absorb these transaction fees. And then again, too, back to excises, the timing of the payment of the excise taxes different for beer compared to

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

General Affairs Committee
February 26, 2007

wine and spirits makes, again, the credit card use and the transaction fees associated with it less attractive. In fact, a very unattractive non-option at this point. One thing I would just, I guess, close with because the hour is very late is what you didn't hear today, and I think that's very, very important. You did not hear proponent testimonies from restaurants, from other retailers, from grocers, from C stores. These are our customers. These are the people making those cash payments to us and they were not here giving proponent testimony. And so I leave you with that thought. [LB544]

SENATOR McDONALD: Any questions? Senator Erdman. [LB544]

SENATOR ERDMAN: What is the, generally, what would be a difference in the transaction fee for a debit card versus a credit card? [LB544]

MARY CAMPBELL: I know that it's less--considerably less--but I don't know how much. [LB544]

SENATOR ERDMAN: Typically, what would be--since you've done the research on the credit cards--typically what's a transaction fee on the credit cards? [LB544]

MARY CAMPBELL: Well, and there isn't a typical figure... [LB544]

SENATOR ERDMAN: Range. [LB544]

MARY CAMPBELL: ...because, it could be higher than our margins. I'm going to be very careful here because of antitrust. [LB544]

SENATOR ERDMAN: Okay. That's all. [LB544]

SENATOR McDONALD: Any others? Senator Janssen. [LB544]

SENATOR JANSSEN: Mary, I just came from hearing across the hall here... [LB544]

MARY CAMPBELL: Yes. [LB544]

SENATOR JANSSEN: ...and 99.9 percent of the merchants in this country pay about 1.2 percent on debit card transactions except for the nation's largest retailer, who by the way, we did give tax incentives to build a warehouse in this state, pays .09 percent. [LB544]

SENATOR ERDMAN: That's very helpful [LB544]

SENATOR JANSSEN: So it's a different playing field, I guess. [LB544]

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Transcriber's Office

General Affairs Committee
February 26, 2007

MARY CAMPBELL: Yeah, yeah. And in answer to your question, Senator, we got all these different playing field numbers, and so to cite one of them is difficult because it is going to vary around the state and the different markets. [LB544]

SENATOR ERDMAN: Well, a range would have been fine. Ray gave me a range. That helps. [LB544]

MARY CAMPBELL: Yeah, that's very helpful. On debits, yeah. [LB544]

SENATOR McDONALD: Any other questions? [LB544]

MARY CAMPBELL: Mr. Boyd wishes to extend his testimony to say one estimate he got was 4.5. [LB544]

SENATOR ERDMAN: Percent. [LB544]

MARY CAMPBELL: Percent. [LB544]

SENATOR ERDMAN: For credit or debit? [LB544]

MARY CAMPBELL: For credit. [LB544]

SENATOR McDONALD: No other questions? Thank you, Mary. [LB544]

MARY CAMPBELL: Thank you. [LB544]

SENATOR McDONALD: We will open it up for neutral testimony, but before then I do have a letter from the Sokol Omaha, Incorporated in support of LB544. [LB544]

HOBERT B. RUPE: Thank you, Senator McDonald, members of the General Affairs Committee. Well, after reading the legislative history from '67, the Miscellaneous Affairs Committee, I think, was the title. My name is Hobert B. Rupe. I'm the executive director of the Nebraska Liquor Control Commission. I thank Senator Synowiecki for giving me the promotion to chairman, but unfortunately I'm just the executive director. First off, I will say the cash law has for...one of the main things, because I want to make sure the credit card issue has gotten into this. What this statute would do is go back to up to 30-day credit for both. Right now, it's 30 days except for beer, which has to be cash on delivery. So the credit card issue wouldn't be affected by this statute at all. Why was this law enacted in the first place? Went back and looked at the legislative history. A couple things. There was testimony on the Floor back in 1966 or '67 that a large amount of hearings before the commission were coming from violations of the credit law. Approximately 166 citation hearings against retailers and/or wholesalers for violating of over 30-day extension credit law. I can tell you right now we have a very small

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

General Affairs Committee
February 26, 2007

percentage of hearings before the commission involving credit law. I would probably estimate we have three or four a year, because they deal primarily with only the spirits and the wines. One of the reasons we have that is, in my position prior to being executive director I was the attorney general in charge of prosecuting it, and I basically said if you're going to bring me a case to prosecute, you bring me a full case. I was getting a little upset when I would charge them and then they would say oh, we're sorry. We don't care anymore. They paid up in full. And so I was looking primarily at the people who were violating the law who just there wasn't a cash flow issue going on between the two. So that sort of reduced the number. So overall, the existing law has worked. The history of it was there were many violations. The other reason that was given at the legislative history and you sort of alluded to it today was--and I can tell you it happens right now--there's about three or four signs that a retailer is having financial difficulty. The one is they're going to have trouble paying their bills and that's all their bills. That's going to be their beer bills, the liquor guys are going to put them on cash only, they're going to have problems with the utilities. And what happens there is when you see that corresponding financial problems at a retailer you also generally see a corresponding increase in violations. In other words, at that point in time they look at the rules and regulations which were designed to promote health, safety, and welfare less as health, safety, and welfare and more as obstacles to keeping their doors open. So generally we'll see a lot more over (inaudible) violations and complaints come out of marginal retailers. We'll see more minors in possession. We'll see more after hours violations. Those are the three typical...all three of those have one thing in common. They're trying to push more product to maintain their cash flow. Thirty days is the national norm. That's actually mandated by federal law that regulates...as you're aware, wholesalers would have to have a federal license as well. And so the reason is the theory behind why should you not extend credit in the first place? Why is liquor different than any other business transaction? Because of, (inaudible) the one instance that prohibition was where you had the manufacturer owning it from basically the field to the tap, and the problems which were accompanied with that. There are very strong trade regulations that keep a manufacturer, or in this case what we're dealing with on this level, a wholesaler from having a financial interest in a retailer so that they can sort of say, well, hey you owe me that money. Why don't you cut out my opponent's production and just carry mine? The federal government when they looked at it thought that 30 days was sort of the limit that you could extend credit, because they wouldn't have the control that they would have by somebody deeper and deeper into debt. So that's why the 30 days is out there on a national level. That's why our liquor and wine are 30 days. So... [LB544]

SENATOR McDONALD: Any questions? Senator Janssen. [LB544]

SENATOR JANSSEN: Hobie, they could deny credit. [LB544]

HOBERT B. RUPE: You can deny credit, yes. [LB544]

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

General Affairs Committee
February 26, 2007

SENATOR JANSSEN: Absolutely. [LB544]

HOBERT B. RUPE: Yeah, there's nothing that mandates a credit. As said before, I mean, if you have a liquor wholesaler who's having problems getting an individual to pay, I know some liquor houses which have put marginal retailers on a cash only basis. [LB544]

SENATOR JANSSEN: Maybe the beer wholesalers could deny a credit. [LB544]

HOBERT B. RUPE: The beer wholesalers could deny credit as well. I mean, like I said we're appearing neutral. That's within there. There's nothing that mandates...like saying... [LB544]

SENATOR JANSSEN: That they have to give credit. [LB544]

HOBERT B. RUPE: It says what you can't do not what you can do. [LB544]

SENATOR JANSSEN: Yeah. Okay. [LB544]

SENATOR McDONALD: Okay. Any other questions? If not, that closes the hearing on LB544. Oh, would you like to close? Okay. [LB544]

SENATOR ERDMAN: How do you spell your name, Senator, for the record? (Laughter) [LB544]

SENATOR McDONALD: We do have a couple of things to read in the record. One was a letter from John Gale, Secretary of State, that opposes LB345 (See Exhibit 19). We also have two letters. One from the Lower Platte South Natural Resources District, which opposes LR11CA (See Exhibit 17, and we also have a letter from the Nebraska Association of Resource Districts opposing LR11CA (See Exhibit 18). That closes the hearings for the day. [LB544]

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Transcriber's Office

General Affairs Committee
February 26, 2007

Disposition of Bills:

LB345 - Indefinitely postponed.

LB544 - Held in committee.

LR11CA - Indefinitely postponed.

Chairperson

Committee Clerk