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Transcriber's Office

General Affairs Committee
January 31, 2011

[LB281 LB314 LB336 LB407 LB411]

The Committee on General Affairs met at 1:30 p.m. on Monday, January 31, 2011, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB281, LB314, LB336, LB407, and LB411. Senators present: Russ Karpisek, Chairperson; Bob Krist, Vice Chairperson; Dave Bloomfield; Lydia Brasch; Colby Coash; Tyson Larson; Amanda McGill; and Paul Schumacher. Senators absent: None.

SENATOR KARPISEK: All right. Welcome to the General Affairs Committee. My name is Russ Karpisek. I'm the Chair of the committee and I'm from Wilber. Committee members present: To my far right, Senator Brasch of Bancroft; next to her, Senator Bloomfield of Hoskins; Senator Coash of Lincoln; next to him is Vice Chair, Senator Krist of Omaha; Josh Eickmeier of Seward is our committee legal counsel, who will be here. I'm sure he is doing something that I should have done. (Laughter) To my far left is Christina Case, our committee clerk; to her right is Senator Larson of O'Neill; Senator Schumacher of Columbus; and Senator McGill of Lincoln. The page helping us today is Lacey Schuler, I believe from Tekamah. Thank you, Lacey. After each bill introduction we would like to hear testimony in support of the bill, then testimony in opposition, and finally neutral testimony. If you're planning on testifying in any capacity, please pick up a sign-in sheet that is on the table at the back of the room at either entrance, fill it out, and either present it to Christina or to the page. That will help us keep a public record. If you have handouts, please make sure that you have ten copies for the page to hand out to the committee. When you come up to testify, please speak clearly into the mike and tell us your name and spell it for us, even if you think that it's easy to spell. Also please tell us whom you are representing, if anyone. Please turn off your cell phones, pagers or anything else that beeps, and please keep your conversations to a minimum. Finally, while we do allow handouts, we do not allow visual aids or other display items. Thank you for your cooperation. Now I will begin with the first bill up today, LB281, which I will be introducing, and I will turn the Chair over to Senator Krist. And when he has to leave, then we will go to probably Senator McGill, and when she has to leave, Senator Coash. [LB281]

SENATOR MCGILL: (Laugh) Senator Coash can be the VVC today. [LB281]

SENATOR KARPISEK: (Laughter) Or whoever wants to do it. [LB281]

SENATOR MCGILL: The Vice Vice Chair. [LB281]

SENATOR COASH: Okay. [LB281]

SENATOR KRIST: Welcome, Senator Karpisek. [LB281]

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

General Affairs Committee
January 31, 2011

SENATOR KARPISEK: Thank you, Senator Krist. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. I represent the 32nd Legislative District and I live in Wilber, W-i-l-b-e-r, Nebraska. (Laughter) Everybody gets it wrong. I'm going to get everyone, try to train them. LB281 would allow passengers in a limousine or private bus to consume alcohol. The purpose of this bill is to promote safe and responsible drinking by encouraging the utilization of designated drivers including limos and buses. That is as simple as it is. I think that we have a lot of people who do this already, and I don't know that we have to make lawbreakers out of people who are doing the responsible thing by getting on a bus or in a limo and having someone drive. I especially think of weddings, those sort of things, where people...instead of driving themselves or getting a buddy who is still having fun to do it. I think that we're just making criminals out of people who are trying to do the right thing. I'll take any questions. [LB281]

SENATOR KRIST: Any questions? [LB281]

SENATOR MCGILL: Just like last week and me not knowing about the 21, like, the happy hour thing wasn't illegal already, I thought this was legal until I saw this bill, so. Because a lot of weddings do do it even though it's apparently against the law. [LB281]

SENATOR KARPISEK: And Mr. Rupe will be here testifying, I think, in a neutral capacity, but I think he can tell us maybe when that did...I think it was legal, and then was not. [LB281]

SENATOR MCGILL: Okay. [LB281]

SENATOR KRIST: Senator Coash. [LB281]

SENATOR COASH: Thank you. And if this is more appropriate for Mr. Rupe, I'll ask him. Does it matter who brings the booze in? In other words, he might have a limo who provides a cooler as part of the service, versus, you know, the customer, you know, the wedding party bringing it in. [LB281]

SENATOR KARPISEK: Under this bill it would allow the consumer to bring it. Otherwise, we already license boats, trains, planes; they have to have a liquor license, and then they sell it to you. Under this bill, we are not including them in there. The reason for me for doing it this way is, if they have the liquor license, number one, I think that would be a real mess. But number two, then they would be--the people renting it would be at the mercy of them on what they charge. So this would be kind of a bring-your-own-bottle club or something like that. [LB281]

SENATOR COASH: Okay. And it's not asking the transportation--the limo company to buy a license, to purchase or... [LB281]

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

General Affairs Committee
January 31, 2011

SENATOR KARPISEK: It is not. [LB281]

SENATOR COASH: ...go in front of the commission for...? [LB281]

SENATOR KARPISEK: It is not. [LB281]

SENATOR COASH: Okay. Thank you. [LB281]

SENATOR KRIST: Thank you, Senator Karpisek. Will you be here to close? Oh, I'm sorry. Senator Schumacher. [LB281]

SENATOR SCHUMACHER: Thank you, Senator Krist. So do private planes, the train, or commercial aircraft all have to have a license? [LB281]

SENATOR KARPISEK: Yes. [LB281]

SENATOR SCHUMACHER: Okay. I didn't realize that. [LB281]

SENATOR KARPISEK: Now, I don't know about private planes, and you can ask Mr. Rupe about that, but if they're selling it or having it on board, then they do. But again, he will be better versed than I. [LB281]

SENATOR KRIST: You'll stay to close, sir? [LB281]

SENATOR KARPISEK: I will. [LB281]

SENATOR KRIST: Thank you very much. Could I have those testimonies in...to proponents of the bill, please come forward. Wow. How about opponents for the bill? In the neutral? We have a taker. Welcome. [LB281]

HOBIE RUPE: Welcome, Senators. Once again, my name is Hobie Rupe. I'm executive director of the Nebraska Liquor Control Commission. I'm appearing in a neutral capacity at this time. You know, every once in a while when you're sitting back there, you almost wonder, you know, what can you sort of call this bill? Maybe, planes, trains, and automobiles might be the way to do it. The commission's position is neutral on this one. When we were approached regarding it, you know, so long as the sale was not included, because if they're selling alcohol or it's part of the price, then they would require a license. This is just allowing them to bring it into those conveyances and allow consumption. It's actually not really...it's modifying, primarily, one of the rules of the road in Chapter 60. You know, so our position was neutral on that. Now just because it got brought up, could we license...could the Legislature say, well, maybe we should license these guys and create a license type and go through that. Yeah. You know, as you said, planes, private planes aren't. These would be the airlines; this is so they can actually

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

General Affairs Committee
January 31, 2011

purchase the alcohol, restock the alcohol when they land at airports. Trains, for consumption in the state. Boats. I think we've got maybe two, three boat licenses, tops. There were more in the past. Those would be, like, the...you know, the dinner boats; the dinner cruises on the Missouri used to be, these used to be pretty big. That was what...that license was designed for us, because they were actually restaurants, floating restaurants moving around. You know, so, you know, under the 21st Amendment this committee could recommend pretty much whatever they want to license. The bill to date does not allow the sale, and so that was our reason why we're neutral. If they would have been allowing the sale without it, we probably would have had to come in in opposition, because then you're selling alcohol without a liquor license and you're not going through the same hoops. So I would be happy to answer any questions regarding...and, hopefully, I can answer anything. [LB281]

SENATOR KRIST: First question. If the limousine service is told that I want them to provide X, X, X and they charge me then, can they purchase without having a license? [LB281]

HOBIE RUPE: If you were purchasing and...if you were serving alcohol and being reimbursed or paid for it, you're selling alcohol, so they would be unable to do that. I mean, technically, you know... [LB281]

SENATOR KRIST: That is the current law? [LB281]

HOBIE RUPE: That's a whole different deal. You cannot sell alcohol without a liquor license. Okay. So every time they go to a fraternity party and they're charging \$5 at the door, they try to say, we're not charging for the alcohol, we're only charging for the cups. [LB281]

SENATOR KRIST: Got it. [LB281]

HOBIE RUPE: That's the law that they're trying to get around. It's against the law to sell alcohol without a liquor license. [LB281]

SENATOR KRIST: And does this bill, then, infer that you have to have a CDL or a limousine license or it has to be...I mean, I guess what I'm referring to is the modified buses on their way to the Nebraska game, that the keg of beer is on the back stoop and... [LB281]

HOBIE RUPE: If I remember correctly, and maybe Josh might be able to clean this up later on, it's referencing back to limousines or buses which are operated under a specific code, I think licensed by the PSC. So if you're not licensed by them, you're not going to be able to do it. So a party bus would be unable to do it. [LB281]

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

General Affairs Committee
January 31, 2011

SENATOR COASH: So that party bus, if they're drinking alcohol while they're moving along, they're violating the law? [LB281]

HOBIE RUPE: Yeah, that's the problem right now, as Senator McGill brought up. I mean... [LB281]

SENATOR MCGILL: I had no idea. [LB281]

HOBIE RUPE: ...it's not so much is it against the law, but for most places it's an enforcement problem. Unless you can see it, unless you know it...that's one reason why, you know, the only time Molly the Trolley, or whatever I think it was named, probably pulled over is if somebody is hanging out the bottle of champagne out the window right by the cruiser. If they have actual knowledge of it, they'll make the stop and make the arrest. But, you know, I think, they're sort of, unless they see it, they're under the impression that they assume people are operating within the law. I'm not sure how good an assumption that is, but that's how they operate it. So a party bus, a bunch of people, in that way they're not licensed, and according to this bill, as a conveyance under the PSC, they would be still in violation of an open container just as if you were driving down with an open six-pack in the front seat of your car. [LB281]

SENATOR KRIST: Any other questions? Senator McGill. [LB281]

SENATOR MCGILL: I know I've been on a wedding limo bus that had it. I had no idea I was breaking the law. None, because it's so commonplace that...and the bus, and I guess, they haven't... [LB281]

SENATOR COASH: Get the State Patrol. (Laughter) [LB281]

SENATOR MCGILL: I know. I'm admitting it, but I had no idea. I wasn't...(laughter). [LB281]

HOBIE RUPE: Well...and I think that Senator... [LB281]

SENATOR MCGILL: It wasn't my wedding, obviously. (Laughter) [LB281]

HOBIE RUPE: Yeah. I think that Senator Karpisek could probably address that. That's one reason why this bill is...I mean, if a lot of people operate it and they're operating it, doing it, you know, it doesn't make a lot of sense to have something on the books which is being violated and people, who are normally law abiding, think they're okay. [LB281]

SENATOR MCGILL: Um-hum. []

HOBIE RUBE: An example which might be somewhat similar is that I think that's one

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

General Affairs Committee
January 31, 2011

reason why Game and Parks finally looked at the rules and regulations regarding consumption in the parks. They're allowing people to have a bottle of wine while they're sitting there cooking their steak dinner; they simply don't want the big parties. And so they're trying to craft a rule which would allow, sort of, the reality of what had been going on and what had developed. I think this one here is--you're right, people are already utilizing these things for those ideas. And if you're in a blacked-out limousine, unless you're, you know, holding it out an open window, the cops aren't going to stop you because they, you know, for that. They don't know what's in there. They don't have probable cause to do it. []

SENATOR KRIST: Senator Brasch. [LB281]

SENATOR BRASCH: Thank you. Question I have is, it says a "limousine means a luxury vehicle," and it says "to provide prearranged passenger transportation" with "a seating capacity of at least five." And does that "five" mean it could be a luxury Lexus or a Cadillac and there's two in the front seat and three in the back seat? Is that a limousine, or does that mean five passengers, or...? [LB281]

HOBIE RUPE: I think what it's got to be is, there's a requirement for a physical partition, and I think this is being pulled right out of the PSC regulations and statutes. So this is already a definition that's in statute somewhere else. [LB281]

SENATOR BRASCH: "On a dedicated basis"... [LB281]

HOBIE RUPE: Yeah. [LB281]

SENATOR BRASCH: ...is that what you're...premium fare? Okay. But it's the traditional limo... [LB281]

HOBIE RUPE: It's a traditional limo. [LB281]

SENATOR BRASCH: ...that we think of with the... [LB281]

HOBIE RUPE: Yeah. [LB281]

SENATOR BRASCH: ...driver and then the... [LB281]

HOBIE RUPE: Yeah, so. And nothing would stop...I mean, if the driver decided to drink while he's in...is the way I read this, he would still be possible, because he's not excluded. The actual driver or operator of the vehicle could not be consuming. He could still be in trouble, so. [LB281]

SENATOR KRIST: Any other questions? Senator Schumacher. [LB281]

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

General Affairs Committee
January 31, 2011

SENATOR SCHUMACHER: Thank you, Senator Krist. Following up just a little bit on Senator Krist's question. So, hey, if a limousine service says, look, you know, we charge so much to drive between Scottsbluff and North Platte and, of course, our limousines are fully equipped with alcohol, that's okay? [LB281]

HOBIE RUPE: According to this, what this is doing is they're not going to be violative of having an open container on the highway. [LB281]

SENATOR SCHUMACHER: Okay. All right. But if they say, you got to throw an extra ten bucks in if you want a cooler, that's bad? [LB281]

HOBIE RUPE: Well, cooler...I mean, that's when you're starting to split hairs... [LB281]

SENATOR SCHUMACHER: Okay. [LB281]

HOBIE RUPE: ...you know. I mean, if you're having a cooler or glassware, that's not serving alcohol. But if they're charging, you know, if they're going to charge you \$100 for the bottle of champagne and it's on your bill when you pay for it, they're selling alcohol, they're in violation of the law. [LB281]

SENATOR KRIST: I'm like, I know I'm nitnoiding here, but if a constituent walks up to me, who owns a limousine service--he should know the answer to this question--but if he walks up and says, if I provide the service for a hundred bucks round-trip, can I offer beverages inside as part of the cost, the answer to that is? [LB281]

HOBIE RUPE: I would say no. [LB281]

SENATOR KRIST: No. If they say, I will offer them the opportunity and I can be reimbursed, the answer would be? [LB281]

HOBIE RUPE: No. There's no alcohol license. [LB281]

SENATOR KRIST: This is a bring-your-own-cooler kind of thing. [LB281]

HOBIE RUPE: It's the way I read the bill. [LB281]

SENATOR KRIST: Okay. All right. Any other questions? Okay. [LB281]

HOBIE RUPE: Thank you. [LB281]

SENATOR KRIST: Thank you, Mr. Rupe. Senator Karpisek, we have a couple of questions, and so if you will close, I'd appreciate it. And I'm turning the reins over to

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

General Affairs Committee
January 31, 2011

Senator Coash for a few minutes. [LB281]

SENATOR KARPISEK: Thank you, Senator Krist, Senator Coash. [LB281]

SENATOR COASH: Senator Karpisek, I was surprised we didn't have any testimony from any of the limousine providers today. Did you talk with them? I mean, or... [LB281]

SENATOR KARPISEK: I have had a couple e-mails with one, and he was more concerned about not making it buses, only limousines. So I assume he doesn't have any buses, only limousines. And I think that we will have at least one letter coming that we did not get. I don't know where it's at... [LB281]

SENATOR COASH: Okay, I... [LB281]

SENATOR KARPISEK: ...but I think that will be in opposition. [LB281]

SENATOR COASH: In opposition? [LB281]

SENATOR KARPISEK: Well, I don't know if it's on this bill, but. [LB281]

SENATOR COASH: Okay. Okay. Well, I just found it curious that we have a piece of legislation that regulates part of an industry that's throughout the state and we don't have any opinions one way or the other from them, so. [LB281]

SENATOR KARPISEK: It must be the weather, Senator. (Laughter) They don't want to take their nice cars out in the snow. [LB281]

SENATOR COASH: (Laugh) No further...any further questions for Senator Karpisek? Do you have anything in closing? [LB281]

SENATOR KARPISEK: Again, I just think people, as Senator McGill said, people are doing this. I'm not trying to let them sell the alcohol. Again, they would have to get a license to do so. It's just that people would not be charged with an open container ticket if they're on there. It does not go with the party buses, as you heard. [LB281]

SENATOR COASH: Senator Bloomfield. [LB281]

SENATOR BLOOMFIELD: Just for my own clarification, we're doing this just, I believe, we said on commercial vehicles. My brother-in-law still can't sit in the back of my car and drink beer while I'm driving down the road. [LB281]

SENATOR KARPISEK: No, sir. [LB281]

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

General Affairs Committee
January 31, 2011

SENATOR BLOOMFIELD: Thank you. [LB281]

SENATOR COASH: All right. [LB281]

SENATOR KARPISEK: Okay. [LB281]

SENATOR COASH: With no further questions, you're in the seat... [LB281]

SENATOR KARPISEK: Okay. [LB281]

SENATOR COASH: LB314. [LB281]

SENATOR KARPISEK: Thank you, Senator Coash. Members of the General Affairs Committee, for the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. I represent the 32nd Legislative District. LB314 would allow a licensed retailer to issue wine tasting cards. Under current law, wine tasting cards may violate the Liquor Control Act as a form of passbooking. Passbooking was the practice of a customer handing a retailer his or her paycheck on credit and then drinking until the check was spent. The classic practice of passbooking could continue for days or even longer until the paycheck was used up. The Liquor Control Commission recommended this change to the Liquor Control Act to address the concerns of licensees wanting to do wine tastings through a prepaid card system. Again Mr. Rupe, executive director for the Liquor Control Commission, is here to answer any questions you may have. If anyone isn't familiar with this, you go to a wine tasting bar and rather than pay for each drink separately you pay maybe \$20 for a little card. Every time that you get a sample they either mark it off or stamp it, and then you can have up to how many ever, the \$20. If they're \$1 apiece you could have 20, which...I doubt they're \$1 apiece. But again, this--I think this goes to liquor on credit or passbooking. I don't know about liquor on credit--I guess maybe that's another way around. But the passbooking, where people would just hand over their whole paycheck and say, "tell me when I'm done," which I could see wrought with all sorts of problems. They would probably tell you that you were done sooner than you really were, but I don't know. Anyway, that is the idea behind the bill. I think...I'm sure there's a place in Omaha that has been wanting to do this or has been doing it, and hence the reason for the bill. Take any questions. [LB314]

SENATOR COASH: Okay. Thank you, Senator Karpisek. Any questions? Seeing none, thank you, Senator. [LB314]

SENATOR KARPISEK: Thank you. [LB314]

SENATOR COASH: We'll take any testimony in support of LB314. And you are... [LB314]

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

General Affairs Committee
January 31, 2011

HOBIE RUPE: My name is Hobert Rupe, I'm the executive director of the Nebraska Liquor Control Commission. That's H-o-b-e-r-t R-u-p-e. Senator Karpisek was exactly right. This was brought to us. The commission first was made aware of this when we had a retailer up in Omaha wanting to do this system. I mean, if you learn anything about the way the wine system works, find out what's going on in Napa Valley first, and eventually it will spread across the entire country. And what they'll do is...they seem more high tech in a lot of ways. And Senator Karpisek went through it, but there's somebody who actually knows much more about wine than I do. All I know is, I, you know, I try to eat red meat with red, and fish with white. (Laughter) So beyond that, my wine knowledge is somewhat basic and barbaric. This is another example about when you're looking at the act, which was originally put in 1935, and is it causing problems today in 2011. Anytime you look at a statute under the act, and you're going, why do they have that, you either have to look back to one or two reasons. It was either a problem during Prohibition or it was one of the things that led up to Prohibition. And passbooking was a problem, one of the reasons why there was a prohibition movement. You know, the idea was, because back then, you know, you'd work, you know, they--oh, yeah, we'll cash your check for you; hey, you now have X amount of drink on credit. And we sort of think that if you have to actually be at least aware that you're buying them as they are, you might show a little more restraint rather than just being told, oh, hey, you've already drank your \$200 three days later, in a stupor. I think passbooking is still a legitimate issue; you know, we allow it. But then, you know, the technical reading of a passbooking is now causing problems with a modern system. Most of these wines, well, actually, they'll be preloaded...a lot of them will be preloaded into wine dispensers, and you'll get your tasting card. You'll pay for your tasting card and you'll actually swipe it, and then when you swipe it, then it will dispense automatically the tasting amount. And so what they can do is, it's actually a way for the wine retailer to make sure that people aren't overconsuming. They're able to get steady pours, they are able to know how much you're drinking at one time. They have people walking around in there answering questions about the wine and also making sure that nobody is getting intoxicated, over-intoxicated, and that. And so it's one of those things, something that made sense in 1935 is problematic now and just really makes no sense in today's environment. So I'd be happy to answer any questions. [LB314]

SENATOR COASH: I'll ask one. Just...this is about this bill but kind of on the broader scope of things, because we see bills in here all the time that are trying to fix something that was a problem... [LB314]

HOBIE RUPE: Um-hum. [LB314]

SENATOR COASH: ...when the Liquor Control Act was fixed. So I guess, just in general, can you give myself and the committee an idea of...you know, if I'm a retailer and I had a license, how do I know I can't do all this stuff? I mean, can you just briefly explain the training process that you're putting license holders through so that they

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

General Affairs Committee
January 31, 2011

know, hey, you know what, you can't take booze on credit and all that kind of a thing. [LB314]

HOBIE RUPE: Yeah. We send out to every licensee when they apply--they get a copy of the Liquor Control Act. We publish that about every two or three years, updated one. We will be doing an updated one probably this summer after, depending what happens this legislative session. We could be...because there's a lot of changes. You also have, you know, the commission staff. Any things which become issues, we utilize our...now our Web site a lot of times put announcements out there. For instance, when the...last year when the bill finally became legal, you know, or active, that you could now...that did away with the old prohibition against boilermakers, we'd be sure people were aware of that, that, you know, they could do that. I actually had, you know, someone call me and say, could they do that now? Yes. Okay, I heard it from you, it's okay then. Yes, it's okay. Because most people who are in the industry actually have a pretty good operational knowledge. We do hope, and if they take one of the accredited training courses, almost all...a lot of the common violations are gone through in that respect. You know, service of visibly intoxicated, selling on credit, age of consumption. You know, almost all those things are in there. You know, there's a lot of urban myths about, you know, what's in and not in the act. The skeleton of the act is still pretty good and it still does it. But we're trying to sort of, you know, make it a little leaner and meaner through some bills last session and this session trying to address, you know, some of the modern issues which have crept into it. But most people have an idea. They know you're not supposed to sell to somebody who is visibly intoxicated. One of the best things I ever heard is we actually had somebody come in for a violation for a sale on credit; they got a relatively minor fine. He was happy because then he could take his order back and show to all his people who wanted him to have them run tabs that he couldn't do it, that it was a violation. So we try to have the training there. Most of the...every trooper has an investigator assigned through the Nebraska State Patrol. They're there for questions. They also offer training. You know, I wish we had more of them and I wish we had more training. But we try to, with our resources, get that information out. [LB314]

SENATOR COASH: Thank you. Any other questions for Hobie? Seeing none, thanks, Hobie. [LB314]

HOBIE RUPE: Thank you. [LB314]

SENATOR COASH: Is there anybody else here in...to testify in support of LB314? Good afternoon. [LB314]

DAN MATUSZEK: Good afternoon. Thank you for having me. My name is Dan Matuszek, last name spelling, M-a-t-u-s-z-e-k. I am the founder, owner, general manager of Brix at Village Pointe in Omaha. The nature of our business is this, we're a

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

General Affairs Committee
January 31, 2011

Class C...we have a Class C liquor license. We're about 21,000 square feet. We have a 13,000-square-foot wine and spirits store on the south side of our building, and then we have the wine bistro that we've been talking about here...talking about that has the Enomatic wine dispensing technology in it. It's about 25,000 square feet. In this bistro we do serve food and we have 64 wines that are available by the ounce through this Enomatic wine serving system. It is state-of-the-art technology. We were the first business to bring this technology into the state of Nebraska, and we have been operating right now with the card technology, where the consumer would come into this bistro and you are issued a card at the front entrance, and we scan a credit card for form of payment, so for lack of a better word, we're running a tab on that card, which really is not the intent. In most states they are preloading the cards, which--we're doing it kind of in reverse, where you would come in, get a card issued to you, and you can taste any of 64 wines by one-ounce, two-and-a-half-, or five-ounce servings. The intent of the passbook law...the way we'd like to use the equipment is to preload the card. So when you'd come in, we could put a set amount on the card for the customer, which in a couple of ways, number one, would...there's some logistical issues we're checking out in the way we're doing it now. People, no matter how much you explain this technology to them, we have a lot of walk-offs, where people...because they're not...we're not actually charging their credit card, we're swiping their credit card for a form of payment, and then at the end of their tasting experience they have to pay. Some think that when we swipe their credit card they are paying for it, and they walk off no matter how good a job we do of explaining the system to them. And then, secondly, with...the way we'd like to use the card, with preloading them, is one more control system to put in place for consumption purposes. We have, in our establishment, all of our employees, we have a self-imposed 21-year-old limit, so everyone is of legal drinking age that works there. You cannot come into the bistro if you're under 21 years old. The way...like I mentioned, the way we'd like to use it would be one more control system put in place, where instead of charging...tasting wine and then paying on your way out, we'd like to put preset limits on the card, so that if someone were at the end of their limit, it's one more check system, where they would have to come up to reload the card, so. Is there any questions? [LB314]

SENATOR COASH: Senator Schumacher. [LB314]

SENATOR SCHUMACHER: Thank you, Senator Coash. The...so, one, they basically get a card. That card they run up a bill on by swiping it, and then they check out and you'd cash out that card against their credit card that you've already taken... [LB314]

DAN MATUSZEK: That is correct. They do not leave with the card. [LB314]

SENATOR SCHUMACHER: That's how you're doing it now. [LB314]

DAN MATUSZEK: Correct. [LB314]

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

General Affairs Committee
January 31, 2011

SENATOR SCHUMACHER: And you want to, basically, create a...like a gift card thingy. [LB314]

DAN MATUSZEK: Exactly. [LB314]

SENATOR SCHUMACHER: And so they, you actually get your money up-front. They walk around. Now, is that card, let's say they only drink half of it, is...do they get a refund or they just take the card home? [LB314]

DAN MATUSZEK: No, it would be like a gift card, where the value that's left on it could be used at their next tasting experience. [LB314]

SENATOR SCHUMACHER: Okay. I don't have anything else. [LB314]

SENATOR COASH: Thank you, Senator Schumacher. Any other questions? Seeing none, thanks for coming today. [LB314]

DAN MATUSZEK: Thank you for having me. [LB314]

SENATOR COASH: Drive safe back to Omaha. [LB314]

DAN MATUSZEK: Thanks. [LB314]

SENATOR COASH: Any other testifiers in support of LB314? Anyone here in opposition? Anyone here in a neutral capacity? Seeing none, Senator Karpisek will waive closing. And we're going to move on to, guess who? Senator Karpisek, here to introduce LB336. [LB314]

SENATOR KARPISEK: We have to make sure that they don't try to take our committee away, Senator Coash, (laughter) with the budget cuts. Thank you, Senator Coash and members of the General Affairs Committee. My name is Russ Karpisek, for the record, R-u-s-s K-a-r-p-i-s-e-k. I represent the 32nd Legislative District. LB336. Under current law, employees of the Liquor Control Commission are prohibited from having additional employment at a place that would have a liquor license. LB336 would allow commission employees to have part-time or seasonal work for a liquor licensee with the approval of the executive director. The executive director or division managers would still be prohibited from working for a liquor licensee. The commission recommended this change in the Liquor Control Act to address the issue of employees trying to find other part-time work but are severely limited due to current restrictions. For example, a commission employee couldn't work at a restaurant, grocery store, or retail store such as Walmart if the establishment operates with a liquor license. Mr. Rupe, executive director from the Liquor Control Commission, is here to answer any questions you may

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

General Affairs Committee
January 31, 2011

have. I did not hear the radio show that was on, but as Senator Coash called in, I think there was a little misinterpretation here. This is not addressing the executive director. It is not addressing the commissioners of the Liquor Commission. It is their employees. And I think, maybe Hobie will correct me, but I think there's twelve of them. Right now, again, they would not be able to work as a waitress or waiter anywhere. Now, you can ask Hobie, but I don't...and again this goes to him right now, when he's the executive director, to approve or deny. Now, talking with him, if someone was going to be a bartender, I don't think that that is exactly his thought here; but I think just to be able to work in one of these places with a liquor license, in my opinion, shouldn't have any bearing on their job full time. And, especially when we're cutting back again, people are out looking for other jobs. I'd take any questions if there are any. [LB336]

SENATOR COASH: Senator Karpisek, is this any license, any liquor license...can they apply to work at any establishment with any liquor license, or are there certain kind of licenses that they still can't? You mentioned like a bar... [LB336]

SENATOR KARPISEK: As I understand it, it is any, with the discretion of the executive director; but, again, ask him that question. [LB336]

SENATOR COASH: Okay, I'll ask him. Any other questions for Senator Karpisek? Seeing none, we'll take the next...take supporters of LB336. Welcome again. [LB336]

HOBIE RUPE: Good afternoon, Senators. Hobie Rupe, executive director of Nebraska Liquor Control Commission. I'm bringing this one at the request of...some of my employees. It was leery for me to do that. If you look at the reason why the prohibition exists, is they want the fact finders who make any rulings or look into determinations to remain neutral and to have no financial interest in a liquor licensee. It was easy to do that in 1935, when basically you had two types of retail licenses. You would have either a bar or a liquor store. Now I've had recent cases where I've had some of my staff, you know, licensing clerks, accountants, trying to get part-time work to supplement their income, maybe to get a down payment for a house, pay off some medical bills, and they're looking out...and, you know, the job market, which is already tight, is completely almost eliminated for them because of the number of places because of the change. You know, grocery stores have liquor licenses now. Target has a liquor license, for instance, you know, to sell wines. So I have...one of my staffers who worked for years was a manager at a clothing store. She could not be hired by Target as a part-time sales clerk in their apparel division because, you know, on the other side of the store they have a liquor license. And the reason...you know, I'm trying not to give myself or any--or subsequent executive directors too much power, but a lot of what it's going to determine is--three things are going to be factored in if this bill passes in company. One, what is their job in the agency? The second is, who is the licensee? And the third is, what is their job duties going to be with that licensee? I think we'd probably...so it would be very inappropriate for them to be at a liquor store, for them to be at a bar,

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

General Affairs Committee
January 31, 2011

restaurants...or a closer call. More than likely what I'm looking here is at the retail outlets where, you know, like I said, somebody couldn't work in the deli department at Hy-Vee, because the wine department...Hy-Vee also has a wine department. I'm not trying to crack this open. You know, the commissioners are still out. Myself is still out. My managers are still out. They can't do it. These would be primarily people who are underneath the rules system...or not the rules, the union contract, staff assistant II's, accountant I's, secretary II's. We're talking...let's see, seven people would be qualified under this. Like he said, it was sort of a change, but it's also if you're looking at, you know, trying to think, what law, does a law that was passed in '35 still have that broad of applicability. This is an example where I think we need to bring it in. You know, my staff does a fantastic job. They make me look competent, which is a wonderful, you know, credit to them; and so when they say, hey, could we have this looked at, I felt duty bound to bring it forth for your determination and to look at. I'm happy to answer any questions. [LB336]

SENATOR COASH: Thanks, Hobie. Any of your staff part-time right now? [LB336]

HOBIE RUPE: Right now, two of them have part-time jobs. One... [LB336]

SENATOR COASH: No, are they part-time for you? [LB336]

HOBIE RUPE: Oh, part-time for me, no. I have full-time employees. [LB336]

SENATOR COASH: The staff that this applies to is all... [LB336]

HOBIE RUPE: Full-time. [LB336]

SENATOR COASH: ...all full-time. Do you see any...because, the reason I asked that is because we're barring them from full-time employment, and I guess, the way I look at it, if we're going to let them work, might as well let them work full time. [LB336]

HOBIE RUPE: Yeah, well... [LB336]

SENATOR COASH: You could do...that would be 80 hours a week; I know that's a lot but... [LB336]

HOBIE RUPE: The reason I'm looking at it is, anytime you're looking to make somebody else another full-time job, I mean, this might sound very selfish, but, you know, their number one priority should be their job with the commission. The second job should be secondary and as an addition to that. And so that's why I said part-time or seasonal employment. I mean, I think you can work almost 30-some hours and somebody can say part-time. So I'm not really saying that. I mean, I would...there would sort of be a hierarchy that the primary job would still be the job that they're working with the

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

General Affairs Committee
January 31, 2011

commission. If they want to work at the other place full time, there are a lot of people who would like to come work for the commission, so. [LB336]

SENATOR COASH: Do you see any room in this bill, Hobie, for you to modify your approval as the executive director? In other words, the example that you gave of the employee wanting to work at Target... [LB336]

HOBIE RUPE: Yeah. [LB336]

SENATOR COASH: ...in a clothing store, like, do you think this bill gives you the latitude to say to that employee, yeah, go ahead and work 20 hours, but you can't work in the liquor department, you need to work in the apparel department. Do you see you have the latitude within this bill to be able to do that? [LB336]

HOBIE RUPE: Yeah, I think because they have to have the approval of the director and if they...and...you know, the way I would do it is, if this bill is passed, I would do a personal rule--policy of how they have to do it and how they would do it. And if they're violative of that, they would lose...you know, I would rescind my approval. [LB336]

SENATOR COASH: Okay. Thank you. Senator Schumacher. [LB336]

SENATOR SCHUMACHER: Thank you, Senator Coash. I guess I read this, so that we don't get into trouble with being some kind of a too broad a delegation, I read this law as saying this is bad except if the executive director says it isn't, basically. So should we have some guideline or at least require that you promulgate a rule or regulation or "upon approval of the executive director finding that it will not conflict with your responsibilities with the liquor commission"? This seems like a very broad power to forgive ahead of time. And should there be some standard in there that you've at least got to make some finding or some notation or some rule so it doesn't look like we're giving the executive the blanket authority to say, oh, well, I didn't mean, so? [LB336]

HOBIE RUPE: I'm not sure...I mean, I would, of course, be willing to look at any amendment or (inaudible). I was looking at it more the other way. Right now it's a blanket no, and this is giving an example. And like I said, it would probably, you know, in my mind...I'll give you two examples of two of my staffers right now. One is, her name is Holly Erickson. She's enforcement, deals with a lot of retailers. Hmm. You know, I would probably look at where she...what's going on with her because she'll have access to other information. Compare that to another person in my office, you know, Tami Freeman or, I'm sorry, Tami Applebee. She got married; I always forget the name. You know, she's an accountant clerk. She deals primarily with the wholesalers. You know, I mean, she doesn't deal with retailers. She's not looking...dealing with the law enforcement patrol. I think there you're comparing two different job titles within the commission as to what information might be problematic. And so I...you know, I...like I

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

General Affairs Committee
January 31, 2011

say, I'm not trying to do it as a power grab here, I just was trying to think that there could be a whole lot of different scenarios that should come up and that the executive director should be the individual, you know. Hopefully, I'm not going to be having the job forever. Somebody else will be doing it after me, which will, you know, do what they think is the appropriate with the management. [LB336]

SENATOR SCHUMACHER: So if we said something along the lines, they can do this upon the finding of the executive director that it doesn't conflict with their obligations in respect to the commission, or something like that. [LB336]

HOBIE RUPE: Yeah. I would have no problem with an amendment like that, yeah. [LB336]

SENATOR COASH: All right. Thank you. Senator Bloomfield. [LB336]

SENATOR BLOOMFIELD: Yeah, if you're gone and Senator McGill has your position (laughter) and her good friend Senator Larson wants to work in a liquor store, is there anything in what we're doing here that prevents them from doing that and Senator Larson reporting back to Senator McGill what's going on in the liquor store? Is it basically, then, keeping you from putting spies into the thing? [LB336]

HOBIE RUPE: Oh, yeah. I'm...there's more than enough things for me to worry about rather than spies. [LB336]

SENATOR BLOOMFIELD: That's you. [LB336]

HOBIE RUPE: That's me. [LB336]

SENATOR BLOOMFIELD: The next guy down might be a different character. [LB336]

HOBIE RUPE: Yeah, they might look to do that. But more than likely what they're going to do is they're going to be looking for employment status. I'm assuming they're going to be trying to, you know, I'm more looking the other way. I'm not trying to see where I can get people in to work so I can have inside information. I'm looking to make sure if somebody wants to work there that it's not going to cause them a conflict with their job duties at the commission, so. [LB336]

SENATOR COASH: Thank you, Senator Bloomfield. Senator McGill. [LB336]

SENATOR MCGILL: I was going to suggest, maybe, you know, we put something in there about it has to be an establishment where they make less than half of their money on alcohol, or something like that, so that would cut out liquor stores, maybe even some restaurants or some bars. [LB336]

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

General Affairs Committee
January 31, 2011

HOBIE RUPE: Yeah. [LB336]

SENATOR MCGILL: And that might be something. [LB336]

HOBIE RUPE: I would gladly, you know, look for that kind of guidance. [LB336]

SENATOR MCGILL: Yeah. As a Target employee, I love all the free press Target is getting at this hearing today. But I do work there, and--yeah. [LB336]

HOBIE RUPE: (Laugh) Yeah, but, like I said, one of my clerks couldn't. [LB336]

SENATOR MCGILL: Um-hum. And that's silly. [LB336]

SENATOR COASH: Thanks, Senator McGill. Any other questions for Hobie? Seeing none, thank you. [LB336]

HOBIE RUPE: Thank you. [LB336]

SENATOR COASH: Any other testifiers in support of LB336? Do we have any testimony in opposition of LB336? Neutral? Seeing none, Senator Karpisek. [LB336]

SENATOR KARPISEK: Thank you, Senator Coash and committee. Just one thought, Senator Schumacher, I understand where you're going on that. I just think right now Mr. Rupe wouldn't, probably, be able to tell an employee, no, you can't go work at a place that changes oil. And so this is just kind of opening up that, yes, they could also work there. And I agree that maybe we should look at some sort of amendment saying, not dealing directly with the liquor side of things or something as Senator McGill said. But again, right now I don't think he has any control of where they would work a part-time job. So I think that's something we can talk about in Executive Session, though, when...I do feel that it does hamper people. Again, look around the table right now. I'm not at a place that has a liquor license, but I was. Senator McGill is. So if that--some of the rules also applied to us, it would definitely tie us, and we're making the laws on it, so. Any other questions? [LB336]

SENATOR BLOOMFIELD: Just one. This is going to seem plumb silly, but under current law if you have an American Legion that is selling beer and has a license, can we associate with them if you're on the board? [LB336]

SENATOR KARPISEK: If you're on the Liquor Control Commission? [LB336]

SENATOR BLOOMFIELD: Right now, if they can't take a...yeah. [LB336]

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

General Affairs Committee
January 31, 2011

SENATOR KARPISEK: You wouldn't be able to be employed by them if they had a liquor license. [LB336]

HOBIE RUPE: They could be a member, but they could not be an officer or manager of (inaudible). [LB336]

SENATOR BLOOMFIELD: Okay. Thank you. [LB336]

SENATOR MCGILL: Hmm. Interesting. [LB336]

SENATOR COASH: Okay. Thank you. Any other questions? Seeing none, we are going to move to LB407. [LB336]

SENATOR KARPISEK: Thank you, Senator Coash and members of the General Affairs Committee. Again for the record, my name is Russ Karpisek, R-u-s-s- K-a-r-p-i-s-e-k. I represent the 32nd Legislative District in the Legislature. LB407 eliminates the requirement that the Liquor Control Commission correspond with municipalities regarding license applications through certified mail. The commission would be able to instead correspond through regular mail and e-mails. Correspondence with other entities or individuals could be done through mail and e-mail if prior consent is given. The commission recommended this change to the Liquor Control Act in order to reduced its certified mail budget. Again, Hobie Rupe is here with the Liquor Control Commission to answer any questions you may have. This came out as part of the LR542 process, kind of, when they looked at their budget and tried to see where they could cut some things. They looked at this to see how much money they're spending in certified mail. Again, this is only to the municipalities that do that, and Hobie can tell us more about how that all needs to work, but I'd be glad to take any questions at the present. [LB407]

SENATOR COASH: Seeing none. [LB407]

SENATOR KARPISEK: Thank you. [LB407]

SENATOR COASH: Okay, Hobie. [LB407]

HOBIE RUPE: Once again, my name is Hobie Rupe, executive director of the Nebraska Liquor Control Commission. It didn't seem like a lot, \$2,500, that's our low-ball on how much we're going to save. We hope, eventually, it will be more. I can tell you that we are very fiscally conservative at the Nebraska Liquor Control Commission and that one area of our budget which always ends up going in the red is our mailing cost, because we have to send out things certified mail. A lot of things, certified mail. Some of them make sense. If somebody has a liquor license and they're being called in for a hearing in front of the commission to address a violation, due process sort of dictates they should get

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

General Affairs Committee
January 31, 2011

that by certified so that we can prove that they have notice. Right now, an application comes in, we send it out to the...once it's completed it gets sent to the local governing body, a copy of the application goes to the Nebraska State Patrol for its processing and background check, Fire Marshal's Office so that they can do the report to make sure that the premise meets fire codes, and the Department of Agriculture, Foods and Dairies, to make sure the health codes are met. So far, Miss Messman, my licensing coordinator, she's here. Three of the four of those we've gotten down to being completely nearly paperless. We're sending all of those reports out to the Patrol, to the Department of Ag, the Fire Marshal in electronic format. The cities would prefer they get it a lot of times in an electronic format because we're not the only agency or governmental entity trying to get rid of the paper and the duplicativeness of having it electronically as well as in paper. And the other thing is, it...even if they don't want it electronically, it costs quite a bit to send something certified mail to a city. What we're seeking to do with this bill is to do away at least with sending to the cities and also allowing us on the act, and we'll change the form, to an e-mail address which they will receive service on. A lot of places, bars, have unique hours. They're not around a lot of times, open or awake, when the post office is, so oftentimes we have problems serving them. I mean, so we get, you know, returns back. And we've been asked, well, can't you just e-mail me this issue. Well, we're trying to do that, and so we're trying to go at least into the twenty-first century a little bit. This is one of those, we think, it will work out better, it will be more efficient, and it will save the state some money. So with that, I'd be happy to answer any questions. [LB407]

SENATOR COASH: Senator Schumacher. [LB407]

SENATOR SCHUMACHER: Thank you, Senator Coash. The language in the bill says, from the date of mailing by receipt or, it says, "electronic delivery." How are you going to prove or how are you going to know that it was delivered? It doesn't say electronic sending, it's "electronic delivery." [LB407]

HOBIE RUPE: Most of those programs which you send electronically will have a bounceback notification when the e-mail gets opened by the recipient. [LB407]

SENATOR SCHUMACHER: Except if they say, "no," or their computer isn't working or it hits the spam screen. [LB407]

HOBIE RUPE: Well, that might be a problem which we'll have to work at technically. But most of the times, if they're getting something from us, I mean, we e-mail the city clerks a lot, this way...the reason we would have to have the notice coming back is to know when the time, for the statutory time, starts running. That's why that would be required. We believe technologically we could have that in place, so that way it would work. [LB407]

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

General Affairs Committee
January 31, 2011

SENATOR SCHUMACHER: I don't understand. I mean, you hit "send" on the mail thing; how do you know the other end it doesn't get hung up on the spam screen? [LB407]

HOBIE RUPE: It won't...it will send a message back to us, a notification back that it's been opened by the recipient. [LB407]

SENATOR SCHUMACHER: Except if the recipient has got his e-mail setting set that says, don't respond to such things. Somehow, I, well, just as a practical matter, that they need to respond to you or something, said, return, or something. [LB407]

HOBIE RUPE: Yeah. What we're saying is if they're not sending it back, then we're not going to have it, so we'll probably send another e-mail or call and ask them if they got it and ask them to resend it. We work very closely with the city clerks. It's primarily the city clerks we'll be dealing with here. If they've got it set so they're not sending those responses back, our statutory time is not going to start running until we get the response back that we sent it out. And if we have to do a follow-up, we'll probably do a follow-up with the licensing staff, so. [LB407]

SENATOR COASH: Thank you, Senator Schumacher. I have a question, Hobie. With the piece of this bill that deals with the other entities, not the municipalities... [LB407]

HOBIE RUPE: Um-hum. [LB407]

SENATOR COASH: ...that you could do this electronically if prior consent is given. Have you thought through how the commission will sort through, you know, you may...50 percent of your licensees may say, yeah, go ahead and send it to me, and 50 percent might say no, I want to keep getting it like I've been getting it. Have you thought through just logistically how the commission will be able to sort through all those licensees and who it's okay to send an e-mail to and who wants...doesn't? [LB407]

HOBIE RUPE: Right now we keep a complete history of all active licensees on our database. And so we would be able to take that. Most times that they're going to receive notice is if we're going to be mailing something particular to them. It's not going to be a blanket mailing to somebody out. It would be, we need to contact this person regarding this issue, and they agree that if we send it to this electronic address that they've supplied to us and we get the bounceback received, that they'll have it, so. [LB407]

SENATOR COASH: So you'll just keep track of the consent through your databases? [LB407]

HOBIE RUPE: Yeah, we run it on a database. What we're going to do is, it's going to be...if this bill passes, we'll be adding it right to our application form and renewal form for every year when they renew. So if they want to do that, then they'll add it to that. So

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

General Affairs Committee
January 31, 2011

we'll sort of build up the database...or add that to the database. [LB407]

SENATOR COASH: Gotcha. Thank you. Any other questions? Senator Bloomfield. [LB407]

SENATOR BLOOMFIELD: Yeah, I suffer the malady of being past 65 and I still don't trust everything electronic. I like a paper trail. And what happens if the doggone computer crashes? Everything you sent out is vanished or...? [LB407]

HOBIE RUPE: Your computer or our computer? [LB407]

SENATOR BLOOMFIELD: Either computer. They're both... [LB407]

HOBIE RUPE: Well, if our computer crashes, there's a whole lot more than just the Nebraska Liquor Control Commission's problems. (Laughter) [LB407]

SENATOR MCGILL: It's all backed up, I'm sure. [LB407]

HOBIE RUPE: It's all backed up. I would trust the office of the CIO to have numerous redundant systems for that database system. I'm not saying it's going to be problematic. I mean, right now, believe it or not, we get a lot of people who if they see there's a certified mail in their mailbox won't pick it up, and it sits there. And then it gets returned, and we end up having to send the Patrol out to hand-serve it, you know, which...I think there's a lot better uses for a trained State Patrol investigator than to be my mailman, so. [LB407]

SENATOR COASH: Any other questions for Hobie? All right. Seeing none, thanks, Hobie. [LB407]

HOBIE RUPE: Thank you. [LB407]

SENATOR COASH: Do we have any further testifiers on LB407 as proponents? Any opponents to LB407? Any neutral? Seeing none, Senator Karpisek waives, but he doesn't get off too easy, because we have LB411. [LB407]

SENATOR KARPISEK: Thank you, Senator Coash, members of the General Affairs Committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. I represent the 32nd Legislative District. LB411 will be a little more controversial than our last few. LB411 would increase the application fee for a special designated liquor license, or an SDL, from \$40 to \$75 and the fee for a catering license from \$100 to \$250. According to the Liquor Control Commission there has been a proliferation in the number of SDLs and the fees have not been increased for a number of years. The commission feels that an increase in fees would better reflect the true value of these

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

General Affairs Committee
January 31, 2011

licenses and to better cover the costs. Again, Hobie Rupe, executive director for the Liquor Control Commission, is here to answer any questions you may have. For those of you that were not here last year, we passed a bill that increased our fees for shipping licenses into the state. That was to cover some of the cost of doing business by Liquor Control Commission. We'll have Mr. Rupe tell us about the fees or what these cost, but I think the biggest issue here, and we've had other bills dealing with this, is that we've had so many SDLs that it gets to be a huge number. Maybe if we could raise this a little bit we wouldn't see as many SDLs. Also the catering license, \$100. Now I'm not dead set on these numbers and I think Hobie can tell us more about those numbers and where we're going on them. But the catering license is a valuable asset, because then for the rest of the year they don't have to do anything else. Now I do want to remind everyone that the municipalities or the locals can add a fee on to these that is double the amount. So if we're looking at the catering license, they could add \$500 and it would end up to be \$750, where right now it would be \$300. Now they don't have to do double, but I would say most do. So that is one thing that we have to keep in mind, that we're not only doing the \$100 to \$250, even though that does seem like a big jump. But that's what we're trying to do to try to help out with the costs and to maybe cut back on SDLs, as we have in other bills. And I'd be glad to try to answer any questions. [LB411]

SENATOR COASH: Thank you, Senator Karpisek. Any questions for the Chair? Seeing none, hang around. Here we go. We'll take testimony in support of LB411. Hi, Hobie. [LB411]

HOBIE RUPE: Hi, Senator Coash. Thank you again for letting me come before you. This, as Senator Karpisek said, this is a little more controversial. First thing we have to sort of remember, what does an SDL do and who pays and when do they get paid. All right. There are two basic people--classes of people who can get an SDL. The first is a licensee--they're limited to six per year unless they have a caterer's permit, in which case they can have an unlimited amount. Or nonprofits--that's the other group who can get them: churches, youth groups, you know, shockingly enough, we do see those. You know, for fund-raisers, that kind of stuff. All right. Last year over 3,700 SDLs were processed by the Nebraska Liquor Control Commission. We have only about 4,200 retail licensees total, so you're getting awful close. We're seeing more and more SDLs being utilized every year. Not saying that's bad. I'm just saying right now it seems that people are getting SDLs just because they might have alcohol there, they might want to have a fund-raiser with the alcohol, and so there's not really a value attached to the license as it is. The other thing you have to remember, the caterer doesn't pay that \$40 a day. So right now, at \$100, if they're going to do three events as a regular licensee, it makes more sense financially for them to get the SDL right--or to get the catering permit, because otherwise they're looking at \$120. So you've got a lot of places who have catering permits, catering endorsements--think of it almost like an endorsement on your CDL license--who aren't really caterers. They're not what people would think of when they think of a caterer. You know, when we're thinking of a caterer, you're thinking

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

General Affairs Committee
January 31, 2011

of, well, maybe somebody here in Lincoln, Chez Hay Catering or Hy-Vee, which does a lot of catering and does those events. This would be the local bar--hey, I'm going to do three or more of these things, I might as well get the catering endorsement as well, and then that money is, you know, because it's more economical. The key thing, what we've been trying to do on SDLs over the last couple of years is professionalize them. Have professional people being in charge of professional events. And, unfortunately, a lot of times there needs to be a cost associated with that, sort of to ensure that you're getting the right people acting as caterers in doing that. These SDLs have been around since 1983, originally they were \$25. They were raised to \$40 in 2000. This is the first raise since then that we've looked at. As Senator Karpisek said, I'm not married to any of the proposed numbers. If the Legislature thinks that something needs to be done, those were a starting point where we thought we should look at if we're trying to professionalize them and trying to start with a value of these, where we need to look at. The key thing we have to realize is there is an interplay between the catering permit cost and the actual daily cost of the SDL, so. I'd be happy to answer any questions. I know when I start talking about SDLs, I can get a lot of blank stares, because it's somewhat archaic and convoluted how they work. Every once in a while I have to ask Mary to make sure I'm right, so I asked her two questions before I came up here to make sure I wasn't going to make an error in my own judgment. [LB411]

SENATOR COASH: All right. Thank you, Hobie. Let me just ask a couple of questions here. And Senator Karpisek mentioned this. The locals can up to double this fee as well, right? [LB411]

HOBIE RUPE: Yes, that's on the catering permit. They can do that via an occupation tax. They have that power right now under general licenses. [LB411]

SENATOR COASH: Okay. [LB411]

HOBIE RUPE: So, in other words, if you're getting a Class C liquor license, which costs \$300, already, say, the city of Lincoln can charge \$600 on top of it. [LB411]

SENATOR COASH: Okay. [LB411]

HOBIE RUPE: Some...most...some do, some don't. And it's "up to." So some maybe less than twice. [LB411]

SENATOR COASH: And the authority to do that is under the general...? [LB411]

HOBIE RUPE: It's under the...yeah. And it specifically--the ability to add that to a catering endorsement is within the catering statute. So, hypothetically, that's your concern. You could limit that right there. [LB411]

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

General Affairs Committee
January 31, 2011

SENATOR COASH: Okay. One of the things...I mean, this is, you mentioned quite a bit about, you know, what is the value of these licenses. But also the commission has to process these, and there's a cost to that. So did you go through an analysis of a per processing license cost so that we can...I mean, were you asked to do an analysis of what it costs to process these so that we can see if the fee is...because this is a cash fund, right, so we got to... [LB411]

HOBIE RUPE: No, this isn't a cash fund. This is General Fund. [LB411]

SENATOR COASH: But it kind of operates that way, I mean... [LB411]

HOBIE RUPE: Yeah. [LB411]

SENATOR COASH: Yeah, you're right, it is General Fund, but it operates like a cash fund in that you need to recover the costs of the work that you're doing. [LB411]

HOBIE RUPE: I can tell you, I have one FTE whose primary job duties is special designated licenses. [LB411]

SENATOR COASH: Okay. [LB411]

HOBIE RUPE: That's one of their...I mean, they have about two job duties, and they're about coequal, and one of them is processing the SDLs. That's all they do. And it can be really boring, and I'm sorry for that employee, but... [LB411]

SENATOR COASH: All right, Senator Bloomfield, then Senator Larson. [LB411]

SENATOR BLOOMFIELD: I was going the same place, the cost of process. And if we do 3,700 of them at \$40 a pop, that's \$148,000, if my math is right. So she's making a pretty good return for the state. [LB411]

HOBIE RUPE: A lot of those aren't coming in as \$40 because they're being done by caterers, because it's so cheap to get the catering permit and they don't pay the \$40 for a per day fee. So, and if they're getting more...if they're going to do more than three, why not just go ahead and get the catering permit and then you have unlimited and you're not paying daily, so. [LB411]

SENATOR BLOOMFIELD: Okay. [LB411]

SENATOR COASH: Senator Larson. [LB411]

HOBIE RUPE: And the other, one thing before we go to the costs, SDLs are a little bit different than every other liquor license. They have to be approved by both the local

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

General Affairs Committee
January 31, 2011

governing body and by the Patrol before they go forward, because they're such a short-track term. They don't make a recommendation. The local governing body can...if they don't approve it, it doesn't go forward to the commission anyway. And so there's a lot of effort--and especially because a lot of these are municipal events, you know, the cities are involved a lot of times because there's a lot of manpower that they're utilizing to put on those events. [LB411]

SENATOR COASH: Senator Larson. [LB411]

SENATOR LARSON: Thank you. Hobie, would the craft breweries and microdistilleries and farm-run wineries fall under this? [LB411]

HOBIE RUPE: Yes, because they asked a couple of years ago--the farm wineries asked to be able to do catering events. [LB411]

SENATOR LARSON: So, in essence, we are increasing all of their licensing fees, the smaller groups. [LB411]

HOBIE RUPE: If they seek to do it. Again remember, you don't have to get a catering license. [LB411]

SENATOR LARSON: Um-hum. [LB411]

HOBIE RUPE: You know, as I said, the best way to think of the catering license, it's like an endorsement, it's like a CDL on top of your regular driver's license. [LB411]

SENATOR LARSON: So do a lot of them have another liquor license on top of it? [LB411]

HOBIE RUPE: They have to have a liquor license. [LB411]

SENATOR LARSON: So they'll have multiple licenses. [LB411]

HOBIE RUPE: Well, it's an endorsement. For instance, I can tell you right now, farm wineries were unable to have them for years because they're, you know, at all three levels. They specifically, when we redid some of the SDLs, asked to be able to give them that power. Right now, half of those...half of the wineries are what we call YK, which is--the Y is the farm winery license, the K is the catering endorsement. The other half are still just Ys. So over half of them, just because they could become caterers, did. [LB411]

SENATOR LARSON: And, I mean, you're doing this just to cut down on the SDLs, basically, not to raise revenue within the department. I mean, how much money do you

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

General Affairs Committee
January 31, 2011

turn back over to the state right now, again? [LB411]

HOBIE RUPE: How much total? [LB411]

SENATOR LARSON: Yeah. [LB411]

HOBIE RUPE: We turn over \$30 million. [LB411]

SENATOR LARSON: You turn back \$30 million. [LB411]

HOBIE RUPE: Between what we collect...we collect approximately \$28 million in excise tax. Fees add to that, so we're probably pretty close to \$30 million. On top of that, about \$350,000 to \$400,000 to local school boards. [LB411]

SENATOR LARSON: And that's (inaudible) another \$125,000, roughly. [LB411]

HOBIE RUPE: Yeah. [LB411]

SENATOR LARSON: So you're not hurting for the money in any... [LB411]

HOBIE RUPE: We're not cash flow. We're Generally Funded. I mean, our budget is \$970,000, so we think you guys get a great, you know, buy for your buck from us. [LB411]

SENATOR LARSON: But you're not doing this to help, for the money. [LB411]

HOBIE RUPE: No. We're doing it to try to reflect what the actual value of the license is. You know, people are becoming caterers because it's more cost efficient, and then, you know, and so, you know, it's sort of, you know, what is a real caterer going to do? I mean, it's...and like I said, we're not married to the actual numbers here. We're thinking there needs to be something done, just sort of slow the growth of SDLs. Everybody now thinks every event has to have an SDL liquor license, you know, and it's because--we think the reason they do that is because they're so cheap. I mean, it's \$40 to get a liquor license for one day. And so you might not be...you know, and we think if there's more, if they have more skin in the game with the value of it, they're probably going to be more, you know, professional in how they're going to operate the event. That's one of the main issues of why we're looking at trying to sort of put some value back into that license. [LB411]

SENATOR LARSON: So a one-day license would be \$75... [LB411]

HOBIE RUPE: Yeah. [LB411]

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

General Affairs Committee
January 31, 2011

SENATOR LARSON: ...and a year-round license would be \$250. [LB411]

HOBIE RUPE: That's correct. [LB411]

SENATOR LARSON: So...and right now the complaint is it's \$40 for \$100, so three of them would go over that \$100, and this one, it's almost...it's...only four would go over it, at these numbers. I mean, what's the...? [LB411]

HOBIE RUPE: Well, like I said, it was an inexact science. I mean, because I had to be cognizant that there's actually a multiplier there because of the tax. [LB411]

SENATOR LARSON: Okay. [LB411]

HOBIE RUPE: The occupation tax will serve also as a multiplier, to make sure that only real caterers are getting it, so that's why you didn't have to go, you know... [LB411]

SENATOR LARSON: Okay. [LB411]

HOBIE RUPE: ...to the whole value of it. It's a similar, I mean, it was an inexact science in coming up with those when Mr. Eickmeier and I were working about those. And we understood the concept behind it, you know, how do we make these things more valuable and make sure they fairly reflect the value of the services that they are seeking to be able to do, you know. But, you know, concept and then application is the question, so that's one reason I think we're more than happy to work with the committee. You know, if they agree with the concept, you know, how's the best way to do that, we're more than happy to work on the exact final numbers. [LB411]

SENATOR LARSON: And I'll apologize to the committee real quick. So if it was \$250, a local entity has the ability to charge double of that in terms of...so it would be \$750 essentially. [LB411]

HOBIE RUPE: Yeah. [LB411]

SENATOR LARSON: And what about the one-day licenses? Can local communities...? [LB411]

HOBIE RUPE: Locals can charge a reasonable fee, or cost, to that right now. I'm not sure if it's set, on what they do. Most of them don't. You know, some charge. I think Lincoln does. I think Lincoln charges twice on the daily, too, if I'm... [LB411]

SENATOR LARSON: So Lincoln does, but other communities... [LB411]

HOBIE RUPE: Yeah. [LB411]

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

General Affairs Committee
January 31, 2011

SENATOR LARSON: ...would not, so it would still make sense for other communities to do the SDLs. [LB411]

HOBIE RUPE: Oh, yeah, there's...you know, most of your larger, most of your larger cities, I think, utilize their taxing rights under the occupation tax. Some don't utilize it to the fullest extent they can. Not only on these but on regular licenses as well, you know. [LB411]

SENATOR LARSON: Thank you. [LB411]

SENATOR COASH: Senator Brasch. [LB411]

SENATOR BRASCH: I'm reading the letter here from the Winery and Grape Association that's opposed to this, and I'm just wondering, when it...rule of thumb is when a price goes up, whether it's the airlines or the liquor commission, my costs go up, that ultimately we end up paying more, whether it's, you know, at a gathering, a banquet, this fee is going to go up, and I'm going to probably expect to have to pay another \$5. Is that generally true, that the prices will get absorbed by everyone sitting here, indirectly, at the end of the day? [LB411]

HOBIE RUPE: I can't disagree with that. I mean, most places would factor that in, but the theory is, are they being too cheap right now for what they are being able to do? They're being able to act like a one-day bar, and once...and, you know, there's a cost associated with that from another bar. I mean, it's...unfortunately, if I could say it's an exact science, Senator, I would say, here's exactly how we'll do it without having a big negative impact on--coming back. You know, the key thing is, you know, the one number I keep going back, there are over 3,700, and that's just the applications. Each of those could have been up to six days. Most of them weren't, most were one day, but some were multiple days, so. You know, the actual days of SDLs, we have it somewhere, I don't have it in front of me right now. So we're trying to make sure that if people are going to want to have these--this ability, you know, let's make sure that they're going to do it in a professional manner. And if the costs are going to be...if it's such a close thing in cost, maybe they don't need to have alcohol at this event. You know, I mean, I don't...you know, I'm actually...agree with some people that you don't need to have alcohol at every single event. You know, it might not be appropriate, and right now I think they're having events...those...alcohol at those events which might not be...because they're so cheap to get. [LB411]

SENATOR BRASCH: Thank you. [LB411]

SENATOR COASH: Thank you, Senator Brasch. Senator Bloomfield. [LB411]

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

General Affairs Committee
January 31, 2011

SENATOR BLOOMFIELD: You just mentioned that you could go out to six days on the permit. Is that...do we currently, then, collect \$40 for each day, or does that \$40 cover all six days, or am I not understanding something? [LB411]

HOBIE RUPE: Forty dollars per day. [LB411]

SENATOR BLOOMFIELD: Per day. Okay. [LB411]

HOBIE RUPE: Yeah. [LB411]

SENATOR COASH: Senator Schumacher. [LB411]

SENATOR SCHUMACHER: Thank you, Senator Coash. Kind of walk me through this, if you would, Hobie. The class of 1980 wants to have a reunion and it wants to rent the local town hall in little town, Nebraska. And, shuckey darn, you can't have a reunion without a keg or two and maybe a little hard liquor. Would they then be the ones that would apply for a SDL and pay the \$40? [LB411]

HOBIE RUPE: They would not be able to get an SDL. [LB411]

SENATOR SCHUMACHER: Okay, they have to have a liquor license. [LB411]

HOBIE RUPE: They have to have a liquor license or there would have to be a approved government or an approved one of the exceptions. So let's say they're going to get it at...let's change it to a museum instead, just for...if they're going to do a reception in a museum for their class. Museums can apply for SDLs. So the museum would probably apply for the SDL in that capacity. You know, it's not that hard to create a nonprofit group either. A lot of times if there's a nonprofit group, you know, they could potentially get the license as well, because nonprofits are also able to get the liquor license. The key thing you have to remember is, when are they going to need the SDL? If it's a private party, they're not selling it, no SDL is required. The SDL only kicks in when either they're going to be selling the alcohol or it's an event that's open to the general public. [LB411]

SENATOR SCHUMACHER: What about a wedding dance? [LB411]

HOBIE RUPE: Wedding dances are always the biggest question we always get. I'll use my wedding as an example. When I got married, I specifically did not want to have to get a special designated license. I thought it might look a little bit bad if I went through a caterer for the Rupe wedding, all right? (Laughter) It was a private event. We paid for it. My wife and I did. So there was no sales, so no alcohol was required. Unfortunately, what you'll see a lot is, first keg...you know, the couple picks up the first keg. Beyond that, it's a cash bar. When you use the words "cash bar," then a liquor license of some

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

General Affairs Committee
January 31, 2011

sort--either at a licensee or, if it's not in front of a licensee, an SDL--would be required, because they're actually selling alcohol. The other question we get a lot of times on weddings is, well, who is invited? When I'm putting up a sign at the post office, the entire town's open, welcome to come. And I give full credit to Sgt. Costello for this one. He and I sort of say, if it's a place that he or I can get into without an invitation, we're going to consider it open to the public. [LB411]

SENATOR SCHUMACHER: Considering the situation that you just described probably takes place in innumerable villages and towns across the state, is this something we should address to give somebody comfort level at some point? [LB411]

HOBIE RUPE: I think most of the towns we work with, most of the places which have especially event halls will--either they'll have a list of caterers or people who can get it and do the SDLs. I mean, they'll have requirements. Some places, just for liability purposes, even if you're paying for it, will have you get an SDL just so there's a, you know, an appearance that it's being okay. And because then law enforcement can come in, in case they're called, because...if there's a problem. You know, we've been trying to professionalize the alcohol industry as much as we can, because you're absolutely right, you know, because there will be a small wedding reception going on in a community hall that probably should be licensed. Yeah, I can't really see the local sheriff or local patrol going in there and arresting the bride and groom for selling alcohol without a license, a Class III misdemeanor, but technically they are in violation. [LB411]

SENATOR SCHUMACHER: And I kind of have a pretty good suspicion that's a widespread practice across the state, and it may be nice to not have a cloud hanging over those folks' head at some point. [LB411]

HOBIE RUPE: Yeah. Well, and to their credit on that one, we tried...we've been working very closely the last couple of years with the clerks about what should be licensed, what shouldn't be licensed. You know, because we're trying to get people, you know, into compliance with the law as much as we can. [LB411]

SENATOR COASH: (Exhibits 1 and 2) Thank you, Senator Schumacher. Any other questions for Hobie? Seeing none, we will take the next testifier in support of LB411. Seeing none, we'll take some testimony in opposition of LB411. And while Ms. Siefken is on her way here, we'll read into the record two letters of opposition, one from the Nebraska Licensed Beverage Association and one from the Nebraska Wine and Grape Growers Association. Both submit letters in opposition, to the committee. Thank you. [LB411]

KATHY SIEFKEN: Senator Coash and members of the committee, my name is Kathy Siefken, S-i-e-f-k-e-n, and I am the executive director of the Nebraska Grocery Industry Association, here today in opposition to this bill for a number of reasons that I would like

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

General Affairs Committee
January 31, 2011

to address. First of all, we have been talking about 3,700 SDLs that are requested in the state. I believe that legislation has been introduced, and I'm not sure if the hearing has been held or not, I think it did, it was held, that would cut down significantly on the number of SDLs, because there are so many of them. And I think it's the 300-foot close to a university, because you've got...that is the only way those people can sell alcohol at special functions, is through SDLs, and if that legislation is passed, that will cut down on a lot of that 3,700. One of the things that I would like you to understand is that the increases in these license fees will be passed on to the consumers. We can't afford to absorb those. And a lot of our grocery stores that have delis do have catering licenses, and so not only will you increase the cost, you will triple, because if you go from \$100 to \$250, that extra \$150, it's doubling on the local level, but in reality it is tripling. And that cost will be passed on to the people in your communities. And frankly, it's tough enough out there right now. And adding another cost to those local celebrations just doesn't feel like it's the right thing to do at this point in time. Regarding the professionalism of people that have SDLs. SDLs must be approved by the local community. If the locals don't approve those SDLs, they don't get an SDL. As a result, if they're not responsible and if they have trouble, they simply won't get an SDL the next year. They are already being very motivated to do things right the first time, because they won't get a second chance if they blow it in their own community. And the last thing I would like to address is the fact that it is not easy to get nonprofit status. I've looked into it for our association, and it's very costly by the time you get through with attorneys' fees. The cost for filing with the IRS and going through all of that, I mean, it's a year's worth of work, and the fees are probably close to a minimum of \$1,500. So it's not something that you're going to do overnight. So someone deciding that they're going to hold an event and become a nonprofit so they can get an SDL, I'm not sure that that would happen. So the end result is, we're opposed to this legislation and we would appreciate it very much if you would just simply kill it. Thank you. [LB411]

SENATOR COASH: Okay. Thanks, Ms. Siefken. Any...before she leaves, any questions for Kathy? Seeing none, thank you. [LB411]

KATHY SIEFKEN: Thank you. [LB411]

SENATOR COASH: Any other testifiers in opposition? Good afternoon. [LB411]

JIM PARTINGTON: Good afternoon. My name is Jim Partington, the owner of Deer Springs Winery. [LB411]

SENATOR COASH: Could you spell it for us? [LB411]

JIM PARTINGTON: P-a-r-t-i-n-g-t-o-n. [LB411]

SENATOR COASH: Thank you. [LB411]

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

General Affairs Committee
January 31, 2011

JIM PARTINGTON: And I thank you for the opportunity to testify in opposition to this bill. And I guess my reason is fairly simple. We're a small winery, 1 of 26 that are open in Nebraska. We've been in business for three years, and we have a gross revenue right now of about \$110,000, looking to get it up to a gross revenue of somewhere around \$250,000, is our goal. And the imposition of this kind of a fee is a pretty significant burden on us in our attempt to grow and become profitable. So for that reason, I think you ought to consider not imposing this burden on us. And also in an environment where the Governor has said we're going to balance the budget without raising taxes, this is really an increase in taxes, when you boil it down to its bare essentials. And with that statement, I'd be happy to answer any questions that you might have. [LB411]

SENATOR COASH: Thank you. Any questions? Seeing none, would you make sure and fill out a testifier sheet before you leave and hand that to Christina. [LB411]

JIM PARTINGTON: Thank you very much. [LB411]

SENATOR COASH: Thank you very much. Is there any additional opposition to LB411? Seeing none, is anyone here to testify in a neutral capacity? Seeing none, Senator Karpisek, you are welcome to close. [LB411]

SENATOR KARPISEK: Thank you, Senator Coash and members of the committee. As I said, we knew it would be a little more controversial, and as Hobie said, these numbers...he's not married to them, I certainly am not. If nothing else, it brings up a debate on where we need to be and where we should be. I think the one thing to really remember is that the locals can charge up to double, and, in fact, then it does triple that number. And I'm very cognizant of that and I agree. Mr. Partington talked about the Governor saying we weren't raising taxes. I would like to remember that...remind everyone that we are a separate but equal branch of government. So just to remind everyone of that. We don't want...I don't want to increase this to harm any of the businesses and especially not the nonprofits that are just trying to make some money. Ms. Siefken talked about the local control that they...they go through the locals. Not very often will you see a local board that is going to tell the fire department "no," even if last year was a real brouhaha. You know, it's hard to do that. And again, we...not that the fire departments ever have a brouhaha, I guess. Someone else. It is, again, just to talk about, to look at, it is General Funded through the Liquor Control Commission. That doesn't mean that they have all the money that they need or want. We've got some other issues that we would like to do. Again, it will be up to the committee to decide on it. I appreciate the chance to talk about it. I wish the weather would have been a little better so we could have had a few more people here to talk about it, but...that's why we do things. And I'd be glad to answer any questions. [LB411]

SENATOR COASH: Any final questions for our Chair? Seeing none, thank you, Senator

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

General Affairs Committee
January 31, 2011

Karpisek. [LB411]

SENATOR KARPISEK: Thank you. [LB411]

SENATOR COASH: That will close the hearing on LB411. [LB411]

SENATOR KARPISEK: And for the day?

SENATOR COASH: And for (recorder malfunction).