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General Affairs Committee
February 26, 2018

[LB679 LB747]

The Committee on General Affairs met at 1:30 p.m. on Monday, February 26, 2018, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB747 and LB679. Senators present: Tyson Larson, Chairperson; Theresa Thibodeau, Vice Chairperson; Carol Blood; Lydia Brasch; Bob Krist; Dan Quick; Merv Riepe; and Justin Wayne. Senators absent: None.

SENATOR LARSON: Welcome to the General Affairs Committee. I am Senator Tyson Larson of O'Neill, Chair the committee. Committee members that will be here today will be Senator Blood of Bellevue, Senator Riepe of Ralston, Vice Chair Senator Thibodeau of Omaha. To my direct right is Josh Eickmeier, the committee legal counsel; to my far left, Aaron Bos, the committee clerk; Senator Quick of Grand Island; Senator Brasch of Bancroft; Senator Krist of Omaha; and Senator Wayne of Omaha. There is one sign-in sheet located on the tables in the back of the room. Please be sure to indicate how you would like your participation in this hearing reflected in the committee's record. The first box is for those who want their presence and position noted as an exhibit in the committee records but are not testifying. The second box is for those who are here for today's committee hearing but will submit written testimony in lieu of testifying which will be noted on the committee statement. And the third box is for anyone testifying today. When it is your turn to testify, please give your sign-in sheet to the committee clerk. This will help us maintain a more accurate public record. After each bill introduction, the Chair will ask for testimony in support, opposition, and neutral. When you come up to testify, please speak clearly into the microphone. State and spell your first and last name and tell us whether you are representing anyone. We are using the light system for our hearings. Testifiers will have three minutes which will be represented by a green light when you begin, an amber light when you have one minute remaining, and a red light when your time is up. Please turn off or silence your cell phones and other electronic devices. Please keep your conversations at a minimum or take them into the hallway. In an effort to go paperless, we accept handouts and written testimony electronically. If you would like to submit something but only have paper copies we will try to accommodate you. We also do not allow visual aids and other display items. Because this committee is going paperless, senators are encouraged and allowed to use

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their electronic devices during the hearings. Thank you for your cooperation and today we will begin with LB747. Senator Thibodeau, welcome to your General Affairs Committee. [LB747]

SENATOR THIBODEAU: Good afternoon, Chairman Larson and fellow members of the General Affairs Committee. My name is Theresa Thibodeau, spelled T-h-e-r-e-s-a T-h-i-b-o-d-e-a-u, and I represent the 6th Legislative District in west-central Omaha. I appear before you today in introduction and support of LB747, which brings the definition of a bottle club back to what it was in statute prior to 2004. Prior to 2004, the Legislature defined bottle clubs and required that the operation of such clubs obtain the appropriate classification of a retail liquor license based on the type of beverages allowed to be consumed. The clubs were regulated by the Nebraska Liquor Control Commission for over 40 years. In 2004, the term "bottle club" was removed from regulation as they no longer existed in the state of Nebraska. However, in the last few years several private membership clubs have opened across the state that have taken advantage of a loophole created when the 2004 legislation was approved. I do not believe it was the intent of the Legislature to create a loophole for private clubs that allow patrons to bring in their own alcohol for consumption to not be under the guidance of the Liquor Commission. The question here is clear: do bottle clubs have the potential to generate the same negative community impacts and risks as bars, taverns, and other alcohol-serving establishments? The answer is yes. Regardless of whether alcohol is sold or brought in by patrons, the same risks and impacts exist. There is the potential for overdrinking, public intoxication, and disorderly conduct. In some clubs, there is a minimum age of 18 to enter the establishment. Given the minimum age requirement, there is a higher possibility of underage drinking and no way to ensure this is not occurring. The Liquor Control Commission is charged with mitigating the potential for harmful impact in ensuring that business establishments in which alcohol is consumed operate to the highest standards. Because the same risks exist as with bars and taverns, the same high standards of regulatory scrutiny should exist as well. Last, you have before you AM2079 which further defines the type of liquor license a bottle club may apply for as well as updates the language with regards to handling membership lists. This amendment would require establishments that fall under this regulation to keep a current list of members that shall be made available to the Nebraska Liquor Commission and/or local law enforcement for the purposes of investigation. I ask that the General Affairs Committee consider moving this bill out of committee and at this time would be open to any questions from the committee. Thank you, Mr. Chairman. [LB747]

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SENATOR LARSON: Thank you, Senator Thibodeau. Questions from the committee? Seeing none, thanks for...oh, I'm sorry. Senator Riepe. I missed you. [LB747]

SENATOR RIEPE: Thank you, Chairman Larson. I appreciate it. Thank you. Is this to embellish the authority of the Liquor Commission, is that the intent? [LB747]

SENATOR THIBODEAU: Well, the intent is actually to bring back control the Liquor Commission had up until 2004. So... [LB747]

SENATOR RIEPE: Okay. [LB747]

SENATOR THIBODEAU: ...as I see it, it's just returning the control that they had already had. [LB747]

SENATOR RIEPE: And the Liquor Commission is asking to get this returned, or? [LB747]

SENATOR THIBODEAU: The Liquor Commission would like to have this returned and they will be testifying right after...right after me. [LB747]

SENATOR RIEPE: Oh, okay. Okay. Thank you very much. [LB747]

SENATOR LARSON: Thank you, Senator Riepe. [LB747]

SENATOR RIEPE: Thank you, Senator. [LB747]

SENATOR LARSON: Seeing no further questions, thank you, Senator Thibodeau. [LB747]

SENATOR THIBODEAU: Thank you, Chairman Larson. [LB747]

SENATOR LARSON: How many proponents do I have? All right, I'll take the first proponent to LB747. Welcome back, Mr. Rupe. [LB747]

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HOBERT RUPE: (Exhibit 1) Thank you, Chairman Larson. Thank you, Chairman Larson, members of the General Affairs Committee. My name is Hobie Rupe. I'm the executive director of the Nebraska Liquor Control Commission. And I will go through briefly why we're here. But first, I want to thank Senator Thibodeau for introducing this bill. So we're clear, I mean, I think the authority might still be there but there's a gray area and I think this is...that's what the intention of this bill is designed to get rid of. As I did...went through this, I felt like I was back in college doing a history paper looking back into this and the theory behind this. Bottle clubs were defined...and you're seeing, what's been handed out, that was in September 2003, bottle clubs were still clearly defined within the Liquor Control Act. They began to be defined in the early 1960s. The purpose behind them was that a bottle club would...they allow members to bring in their own alcohol to consume on the premises would have to receive a liquor license issued by the commission. It was \$250 in a county under 5,000 and \$500 over that. And the fact that it says in the county is important, because in that time frame the only way to get liquor by the drink, to sell a mixed drink, was for the city to have voted it in and to allow it and the license types were confined solely to inside municipal organizations. So you could not get a bar in the county. So they were regulated. Well, as time went forth, the exceptions start to swallow the rule, primarily through a statutory change which allowed the bottle club to purchase a large amount of alcohol and then sell it back to its contributing members, i.e., they were able to sell alcohol back to their members based upon their issues. Some other issues: In some of the 1980s, the only difference between a bottle club that would...and a Class I liquor license--a beer, wine, spirits, restaurant license--was the fact that one was inside the city limits and one was out in the county. And so in 2003, this Legislature passed LB485. LB485 went and took 14 different types of liquor licenses which had different price points, all over the place--it was a confusing mess of how much your license, depending upon what you were--and collapsed them down just to five liquor license types based upon the alcohol that was sold and consumed on that premises. By statute, any existing Class M bottle club licenses, of which there still were some out the counties, were by statute converted over to Class I liquor licenses which was the...had the same rights and abilities: beer, wine, and spirits. That same statute also allowed the...out in the county to be a Class C liquor license or other license. The fact that there was a...by then the fact that one would be inside the city limits and one would be outside city limits was a distinction without a difference. And so it was collapsed and it went away. As Thibodeau mentioned, recently we've had some instances...some people come forward who say, well, you don't define bottle clubs, therefore, we

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think we can be underneath this. Well, the statute that would apply is 53-186.01 which says certain classifications should have a liquor license. They would include restaurants, dance halls, any place...clubs, or any place open to the general public has to have a liquor license. And so now the issue of course is trying in...trying to figure out what hole...what box those people would be and if they require a liquor license. Bottle clubs are saying, well, you know, we're not open to the public. We have a membership list. I know that some people would disagree that they...if you can show up, pay your membership fee for a one-time entry fee I'm not really sure that's a membership as opposed to a door fee. But the key issue here is has nothing to do with the entertainment going on. Some of them have been adult entertainment locations. The most recent issue which has come before us is a Viking fight club called Valhalla's Gates which throws axes. And they think they should be able to enjoy their beer while they're throwing axes down a lane at a target. The issue here is very simple. The commission has looked at...historically we thought that they were always supposed to be licensed. If there is some disagreement, this clarifies it and sort of codifies what I believe is the Legislature's prerogative (sic-- prerogative) under the Twenty-first Amendment which is to regulate where alcohol is sold and consumed. With that, I would be happy to answer any questions since I see I'm on to the yellow. One thing I will say, there have been multiple locations in this. There's also an issue the commission is having: a licensee whose license was cancelled for cause is now attempting to use this same method to be open where they're a country honky-tonk. So I think, you know, it needs to be clarified and this bill should be forwarded out of committee. So I'd be happy to answer any questions. [LB747]

SENATOR LARSON: Thank you, Mr. Rupe. Senator Brasch. [LB747]

SENATOR BRASCH: Thank you, Chairman Larson, and thank you, Mr. Rupe, for your testimony. Can you explain a little bit more about the bottle clubs that existed versus the ones that you're seeing emerge today. [LB747]

HOBERT RUPE: The traditional bottle club, when they were first introduced, they would be venues where somebody would be able to take their own private alcohol, they would store it there. The old classic...if you've seen the old movies from the '60s, where they would have a locker with the keys to keep it there. The bottle club would charge membership fees, which helps maintain it. They would also often charge for the setups. Basically you couldn't bring in your

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own soda or your own glassware. They would charge you for that, that purposes enable to maintain it. That was sort of the...a core in how they started. As the laws changed, they more and more morphed into a full-on bar where they were able to buy alcohol and sell alcohol. So by the time we get around to 2003, that model was gone. Now the current model appears to be a BYOB club. You have to be a member. They do maintain membership lists. And I believe some of them are here. They can answer it more specifically. You have to become a member and then you bring your own in and consume it there. Of course, the concerns have...is that then you're sort of being a night club without the same oversight as a night club because you're able to drink beyond 2:00, law enforcement can't enter in to make sure that there's not underage drinking or overservice or other violations of the act taking place. And so we think that this is sort of a workaround around the oversight. And like I said, this has nothing to do with the type of entertainment being offered. This is just if you're going to be a nightclub, you should be licensed as a nightclub. [LB747]

SENATOR BRASCH: And this would bring them in line with other existing bars where they would have hours and... [LB747]

HOBERT RUPE: Yeah. [LB747]

SENATOR BRASCH: ...be held to the same... [LB747]

HOBERT RUPE: What this would do is, especially with Senator Thibodeau's amendment because there was some confusion, this would require them to get a liquor license and then they would have to get either a Class A or Class I liquor license. And Class A is beer on premise consumption only. Class I is beer, wine, spirits on premise consumption only. If they could...they could start selling it at that point if they had a liquor license. And I think that was sort of the demise of the old classic bottle clubs is, why allow somebody to bring in when you can sell it them at a markup? [LB747]

SENATOR BRASCH: And so it would be competition for the existing or just a line then for existing bars and nightclubs where...and maybe testifiers will bring it forward on what is problematic. Is it, for one, public safety, the other is fair business practices? [LB747]

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HOBERT RUPE: The one I would hit on would be public safety. [LB747]

SENATOR BRASCH: Public safety, okay. [LB747]

HOBERT RUPE: A holder of a liquor license, when you hold a liquor license you agree basically by getting the license to allow law enforcement and members of the commission staff to enter on to your premises to make sure that the act is being complied with. So that's why oftentimes if you're in downtown Lincoln here you'll see an LPD officer do a walk-through. They're looking for certain things. They're looking for somebody visibly intoxicated, which could be a violation if they continue to serve somebody visibly intoxicated or minors. That oversight does not exist here because these are private clubs so, therefore, law enforcement can't enter in. And it's my understanding that, at least at some of them, if you're a law enforcement...a member of law enforcement you have to be approved, there's an additional step to be approved to be a member even. So that oversight is not there. The other is, of course, is the hours. If you're a private...just because I have to stop drinking at 2:00 at a bar, if I'm at a private home I can drink beyond 2. Same thing with these clubs: They can drink outside the normal consumption hours. [LB747]

SENATOR BRASCH: I have no other questions. Thank you. [LB747]

SENATOR LARSON: Thank you, Senator Brasch. Senator Riepe. [LB747]

SENATOR RIEPE: Chairman Larson, thank you. You mentioned a membership list, is that correct? [LB747]

HOBERT RUPE: Yes. [LB747]

SENATOR RIEPE: Is there an opportunity here for these membership lists to become available to the Omaha World-Herald through the Freedom of Information Act? [LB747]

HOBERT RUPE: Well, under the old statute they probably could have been because your membership list had to be maintained as you can see under the old copy. I believe Senator

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Thibodeau's list limits its availability to commission staff and law enforcement for investigative and enforcement; therefore, it would probably fall under an investigatory exception to the Open Meetings Act. [LB747]

SENATOR RIEPE: If the membership list appeared on a Sunday morning it would probably have a little deterrent effect. [LB747]

HOBERT RUPE: You know, it might. You have to remember, the old statute had them on site because a lot of times that's how golf clubs back in the day were licensed. They were licensed as bottle clubs. [LB747]

SENATOR RIEPE: Yeah, okay. Thank you. Thank you, Mr. Chairman. [LB747]

SENATOR LARSON: Senator Blood. [LB747]

SENATOR BLOOD: Thank you, Senator Larson. Thank you for your testimony. I have two questions. One is a question of clarification. So if I hear you correctly, the public safety issues are that establishments like this can stay open past the closing times for bars. [LB747]

HOBERT RUPE: Yep. [LB747]

SENATOR BLOOD: And then there's no sanctions if they serve underage clients or someone who's obviously drunk. [LB747]

HOBERT RUPE: Yeah, there's no way that...if you violate those under the act you're looking at suspension and revocation or cancellation from the commission. Also because of the nature of them, there's no real enforcement powers. We can't go in and check that. I mean, you know, one of the ways we determine whether somebody is selling to minors is compliance checks where we send cooperating minors in and attempt to purchase. If they're not license holders there's no way to check that. And plus, they wouldn't be members. [LB747]

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SENATOR BLOOD: And the second question I have is, did you also receive a letter like the senators did that was rather threatening by nature that said that we were going to sued if we pursued this bill? [LB747]

HOBERT RUPE: I did not receive it directly. A copy of those letters were forwarded to me. [LB747]

SENATOR BLOOD: And it's my understanding, and maybe you don't know the answer to this, looking through what I could find on-line, but the other lawsuits really pertained more to municipalities or counties, not necessarily a state. Are you aware of whether the ones that they claim that they're going to continue to win? [LB747]

HOBERT RUPE: Well, I don't know. They can claim to win this one here is...I would look at this, one, I think probably some of these establishments already fall under the Liquor Control Act under 53-186.01, which would be a criminal citation brought by the local authorities. Also, I think that if you were to clearly define bottle clubs, basically going back to a similar definition to what preexisted...what worked 40-plus years, that would be an exercise of the state's abilities under the Twenty-first Amendment to regulate alcohol. You're not saying what kind of conduct can or cannot take place on those. [LB747]

SENATOR BLOOD: Such as the strip club part. [LB747]

HOBERT RUPE: Sure. You know, strip club, there were juice bars in this state for 20 years that were, you know...and under my...I don't care. [LB747]

SENATOR BLOOD: There were? In Nebraska? [LB747]

HOBERT RUPE: Yeah. [LB747]

SENATOR BLOOD: Did not know that. [LB747]

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HOBERT RUPE: Yeah, because they don't serve...the alcohol wasn't a problem. So I just want to make sure that...and I have to be very careful because you always have to park any of your own thoughts on the board when you're a regulator. My issue here is solely based upon the alcohol is that if you're going to be a nightclub serving alcohol or allowing alcohol to be consumed as part of your commercial enterprise, you should be licensed as such because of the oversight. [LB747]

SENATOR BLOOD: So the last question I have for you, has this organization, who's so bold, had any discussions with you as far as trying to work through any of this? Or has it mostly been like what we have received, which are threats? [LB747]

HOBERT RUPE: Well, if you're talking about the one who's...as I stated, that was not the only issue why we were worried with. There was a couple other locations besides those establishments ran by, I believe, Mr. Harrington is his name. No, the last...when he first opened his club in Hastings I was asked and based on my understanding of how his business operated I opined that he was probably in violation of 53-186.01 and the Grand Island Independent printed that. And the only conversation I had then was a \$1 billion lawsuit filed against the World-Herald, the Grand Island Independent, and me. I can only assume that because Mr. Buffett owned part of the World-Herald is why it was \$1 billion, because I certainly know I don't have \$1 billion. But that was my last contact with anybody representing Mr. Harrington in this case was that lawsuit. [LB747]

SENATOR BLOOD: Thank you. That's very telling. I appreciate it. [LB747]

SENATOR LARSON: Thank you, Senator Blood. Senator Krist. [LB747]

SENATOR KRIST: I just want to put a couple things on the record that you and I have talked about off the mic. First of all, there's no intent to regulate morality or to close Mr. Harrington down in any way based upon the activity in his clubs, is that what I understood from our conversation? [LB747]

HOBERT RUPE: That is correct. From the Liquor Control Commission, it would just be that if you're going to be a commercial enterprise allowing alcohol, you need to be licensed as such. If

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he chose to give up the BYOB aspect of it, my concern in regulation would cease. If he decides to then get a liquor license he would then be subject to provisions of the act and any local ordinances that were taken on in accordance with the act. [LB747]

SENATOR KRIST: So as a matter of fact, if you went to one of these establishment and today and there was no closing time or the closing time was, let's just say hypothetically, 4:00 in the morning, the fact that you have to have alcohol off of the bar or off of the table or gone, I think the current law says 2:15? [LB747]

HOBERT RUPE: Well, you've got to remember it's either 1:15 if the city has not voted in 2:00 closing time, or 2:15 if it has. So basically you can't sell anymore after 1:00 or 2:00 and everything has got to be picked up by 15 minutes after. [LB747]

SENATOR KRIST: So really one of the harshest things that this particular piece of legislation does is allows for public safety to follow through in terms of the amount of consumption that's going on. And the alcohol has to disappear based upon the parameters that you just discussed, whether or not...whether it's been voted on as a 2:15 or a 1:15 parameter. [LB747]

HOBERT RUPE: That's correct. [LB747]

SENATOR KRIST: What other things would have to change inside those structures? [LB747]

HOBERT RUPE: Well, as I said, from a Liquor Control perspective, the main issue of course is he would be subject to review by Health Department, Fire Department, which I'm assuming he probably...he might be now. I'm not sure where he's at. Fire Marshal would have to sign off on it. You would have the local governing body who would have the opportunity to weigh in under an application. From a business model, I think you would have to look at, you know, where he's located at, what city or what county, and whether they would have some ordinances which may or may not preclude full nude in a liquor establishment. That would be up to the cities, how they would look at that. That's a city ordinance. Some of the cities have a linkage between a liquor license back to those clauses. From the commission's standpoint, you know, ours are very minimal. Ours are you can't have...his employees would still have to be 19 to be...to work in

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there. And there are some parameters in there that...I have never been inside any of these establishments, I don't know...or any of Mr. Harrington's establishments so I don't know what goes on in there. And I'm pretty sure that I would be on the banned list from being a potential member. [LB747]

SENATOR KRIST: Okay, thank you. [LB747]

SENATOR LARSON: Senator Krist. Seeing no further questions, thank you, Mr. Rupe. [LB747]

HOBERT RUPE: Thank you. [LB747]

SENATOR LARSON: Next proponent. Welcome to your General Affairs Committee, Ms. Melton. [LB747]

AIMEE MELTON: Thank you very much, Chairman Larson, Senators. I am here on behalf...Aimee Melton. I apologize. [LB747]

SENATOR LARSON: Please spell it. [LB747]

AIMEE MELTON: A-i-m-e-e M-e-l-t-o-n. I am here as a member of the Omaha City Council. I hope that the senators received the letter in support of this legislation that our president Ben Gray signed, and the city and all of the council members remain supportive of this. And just to kind of follow along, I think that this legislation really is it's closing a loophole that I think was opened up. And I think it's just restoring the intent of the Legislature from...prior to 2004. That's what I see this legislation. I understand that there are now private membership clubs that are out there and there's numerous membership clubs. In fact, the very first time I became aware of kind of a membership club like this it was through our former city clerk. I think Buster Brown called it to my attention about year and a half, roughly a year and a half or two years ago, about a club located in south Omaha that has a bring your own...and although what they do is they engage in it appears consensual place for people to come and engage in consensual sex with other people, on their Web site. Again, I haven't been to any of these establishments myself and I'm concerned with some other things in here. But I think when you're...sometimes when you have these clubs

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that aren't regulated, there are issues for not just the general public that we talked about, with the consumption of alcohol until all hours in the night, 5:00. There is no way to monitor how much people are consuming when you're bringing it yourself, that would be the second one. But also for the people, other people that are actually inside these clubs. So when you have a club where it's bring your own and there's no monitoring of the alcohol, I think there are concerns of who's serving who and what can happen in a place that is open for actual consensual sex in addition to some of the health issues I think that may be there. And I don't want to get into some of those details at this point. But I think this is extremely important to our cities and I think, Senator Blood, as you mentioned I think we have an obligation to the citizens we represent to ensure that all establishments in our cities are following the same rules and regulations for the safety of our citizens. And that's regardless of any threat of any lawsuit from any one person. This is what we were elected to do and I appreciate the committee taking the time to hear our testimony in favor of this legislation. [LB747]

SENATOR LARSON: Thank you, Councilwoman Melton. Senator Krist. [LB747]

SENATOR KRIST: Thank you, Councilwoman Melton, for coming. And again, just for the record, it's been said that the city of Omaha city prosecutor already has the law at his or her disposal to take care of these issues. And I guess what you're saying for the record is that's not necessarily the case, that this is something that you support because it clearly defines...I don't want to put words in your mouth, but it clearly defines that there are no other gray areas. It's black and white. It should be...we should pass this law. Is that what you're saying? [LB747]

AIMEE MELTON: Yeah, Senator Krist, that's exactly right. You stated it correctly. And our city prosecutor Matt Kuhse, also, there's some issues with things that are going on that he doesn't have the ability because the police do not have the ability to go into these establishments even for the purposes of investigating. Unless they have probable cause and can get a warrant, they do not have access to any of these private membership clubs. So there could be actually potential assaults and other things that are going on inside the club like I mentioned in south Omaha where I think that, you know, consenting adults can do whatever they want. We do live in a free country and I support that. But I think when it comes to serving alcohol or having alcohol consumption that there is definite security issues. And in other bars the police have to let...you

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know, they have to let law enforcement in. They're required to do that and they're required to cooperate with law enforcement. And we don't have that same cooperation here. That's the problem that Mr. Kuhse has with some of these private bottle clubs as well. We just don't have the oversight. [LB747]

SENATOR KRIST: So if parties feel that they are adversely affected by a piece of this legislation, it will be very important to establish a legislative record starting here and on the floor as it goes forward that there is a compelling reason by not just the Nebraska Legislature but from local governments. And I appreciate you helping us put that on the record. [LB747]

AIMEE MELTON: Well, thank you, Senator. And that goes in addition, you know, one of the clubs states that there's a dress code for men that they should wear nice button-down shirts and pants and that the women should dress extremely seductive. I mean just comments like that from, you know, the club in south Omaha--that's on their Web site--gives me concern when you have alcohol consumption that's going on. When people get...have a couple drinks or even get inebriated, people tend to maybe not act as they normally would when they're not under the influence of alcohol. And without any of these oversights from the Liquor Commission or from our police, I think that not just the safety of our citizens who are driving on the streets at 3:00, 4:00 in the morning, you know, you have your ER nurse that may be coming home and could get hit by somebody who has come from one of these clubs, but the people within the clubs. Some of the people that maybe have decided they want to go and then something happens while they're there. So, you know, I'm concerned with everybody in regards to this and I think having the Liquor Commission have some control at least over the consumption of the alcohol is important, not control over what they...anything that goes on. I would be concerned about alcohol consumption and axe throwing. That would be a concern of mine as well, again, for the safety of those...I can't imagine what I would do with an axe after having a couple drinks. I don't think that would be a good idea. But that's...again, we're not targeting any one particular bottle club here. And I think that was the accusation. There are multiple bottle clubs across our state and I think they need to be under the same control as every other bar, every other establishment that is open for business, whether it be a private membership. And, Senator Blood, I wanted to just touch base on that, the membership open. I believe that and with this amendment you'd have to have a

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subpoena in order to get that. That would be my opinion. You'd have to have some kind of open case. So I don't think that these memberships would be open under the public records. [LB747]

SENATOR BLOOD: That was his question. [LB747]

AIMEE MELTON: Oh, I apologize. [LB747]

SENATOR BLOOD: That's all right. [LB747]

AIMEE MELTON: Senator Riepe, your question. [LB747]

SENATOR RIEPE: And I was being a little tongue in cheek. [LB747]

SENATOR LARSON: All right, any further questions? Seeing none, thanks for attending. [LB747]

AIMEE MELTON: Thank you. Thank you very much. [LB747]

SENATOR LARSON: The next proponent to LB747. Welcome back. [LB747]

JIM OTTO: Senator Larson, members of the committee, my name is Jim Otto; that's J-i-m O-t-t-o. I am a registered lobbyist for the Nebraska Restaurant Association and the Nebraska Retail Federation and I'm here today to testify in support of LB747 on behalf of both associations. Our reasons...our members who have liquor licenses have gone through the background checks, the fingerprinting. They've had their inspections for fire code, for health department. They're restricted in time as to when they can serve, who they can serve. As has been said, licensees must permit any law enforcement officer to inspect or enter the premises at any time and shall not delay entry. They don't serve...they can't serve to minors. They can't serve to over-intoxicated people or visibly intoxicated people. They're glad to do that. They want to do that. They want to comply with the law. They respect the oversight of the Liquor Control Commission. The Liquor Control Commission performs a valuable and essential service for the public safety and we just

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urge that you allow them to do their job when it comes to bottle clubs and advance LB747.
[LB747]

SENATOR LARSON: Do I see any questions from the committee? And you're here representing the Restaurant Association? [LB747]

JIM OTTO: Yes, they have...many restaurants have liquor licenses. [LB747]

SENATOR LARSON: I'm well aware. All right. Thank you. Next proponent. Welcome back, Mr. Grasz. [LB747]

NATE GRASZ: Good afternoon, Chairman Larson and members of the committee. My name is Nate Grasz; that's N-a-t-e G-r-a-s-z. I'm the policy director for Nebraska Family Alliance and represent them in my testimony. LB747 is a much-needed bill for a variety of reasons as you've already heard today, but I would like to focus on one that is of particular concern: sexual exploitation. Earlier this year many of you participated in helping launch a new anti-trafficking campaign called Demand an End to further shine a light on that heinous activity. We were proud to help support this campaign. And while the importance of this work cannot be overstated, we also recognize that as a society we can never truly demand an end while ignoring obvious signs of sexual exploitation happening in organized clubs on a daily basis in our own communities. Restrictions in state and municipal laws prohibit topless and nude dancers in places where alcohol is served. But since bottle clubs do not require a license, they're able to take advantage of this oversight in the law. Information provided by bottle clubs indicate that it is this very loophole that allows them to not only offer fully nude dancing but actually permit and encourage their patrons to make physical contact with the nude dancers and their sexually intimate areas. We hope the committee will consider the definition of prostitution as defined in Nebraska Revised Statute 28-801 which defines prostitution as including sexual contact meaning the intentional touching of intimate areas including inner thighs, buttocks, and breasts in exchange for money. A former stripper, who I'm now proud to call a friend, used to work in bottle clubs that featured fully nude dancing. She could only describe them to us as being like a meat market where women are stripped naked, dehumanized, and paraded around like property. The dancers are completely nude and vulnerable waiting for a stranger who could be 30 years their elder to

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pick out who they want to grope until the dancers make enough money to leave that night. This is because the dancers are often required to pay fees to start working on top of giving cuts of everything they earn back to the club. This entangles them in debt bondage where all too often what may start out as a choice under their own free will may not end up that way. We remain greatly concerned that while bottle clubs often bar law enforcement from entering, they do permit entrance to 18-year-olds and allow them to participate in the lewd, sexually explicit entertainment all in the presence of alcohol. I would like to thank Senator Thibodeau for introducing this bill and strongly urge the committee to advance LB747 to the full Legislature. Thank you. [LB747]

SENATOR LARSON: Thank you, Mr. Grasz. Questions from the committee? Seeing none, thanks for coming today. [LB747]

NATE GRASZ: Thank you. [LB747]

SENATOR LARSON: Welcome back. [LB747]

TOM VENZOR: Actually this is my first time here. I've never been here before. [LB747]

SENATOR LARSON: I guess I'm just used to you in... [LB747]

TOM VENZOR: ...in other places. [LB747]

SENATOR LARSON: ...in other places. I'm sorry. [LB747]

TOM VENZOR: (Exhibit No. No worries. Good afternoon. Chairman Larson and members of the General Affairs Committee, my name is Tom Venzor; that's T-o-m V-e-n-z-o-r, and I'm the executive director of the Nebraska Catholic Conference which represents the mutual public policy interests of the three Catholic Bishops serving in Nebraska. The Nebraska Catholic Conference would like to voice its support for LB747. As well, the Nebraska Catholic Conference would like to recognize and commend the broad support within the Legislature that LB747 has garnered. We hope that this broad support will lead to swift action by our Legislature

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to deal with the problems LB747 seeks to address. Loopholes in the law are often unintended consequences of legislative efforts. We appreciate the hard work that our legislators and stakeholders undertake when passing legislation, but we also know that our laws are dynamic and change with the circumstances that surround us. Our Legislature has gone through a process of regulating and rescinding regulations of bottle clubs based on their presence in our communities. In more recent years our communities have again seen bottle clubs establish themselves in our neighborhoods. Oversight and regulatory measures are necessary to combat at least some of the negative public safety, public health, and ethical implications of these entities. The fact that these bottle clubs, which essentially operate like other alcohol-drinking establishments, have no reasonable restrictions on their operating hours is troublesome. As well, the entry of adults between the ages of 18 and 21 in these drinking establishments raise serious concerns about underage drinking, something that our state invests significant public funds and attention to prevent. Despite claims to the contrary, anybody with common sense and an experience of human nature knows that such lack of restrictions poses a public safety risk that should be addressed. Furthermore, as a general matter, the immoral sexual activity and behavior that occurs in these establishments raises additional problems. Our state has done tremendous work in the last several years to combat the problem of human sex trafficking. We have seen this Legislature unite in action to protect vulnerable and at-risk children and adults from the ills of human sex trafficking. We've also seen important initiatives undertaken by other public officials such as the Demand an End campaign led by the Attorney General. And then there are the countless number of people who are leading and working behind the scenes through organizations, secular and faith based, that directly counter human sex trafficking. In addition, this Legislature has seen the influx of legislative bills this session attempting to deal with the pervasive threat of undue influence and coercion in what are otherwise claim to be consensual sexual relationships. The hard work that our Legislature is attempting to do on these issues can all too easily be undermined without common sense and reasonable regulatory oversight of bottle club establishments. The lack of regulation and oversight over bottle clubs raises serious questions about the type of activity that is actually taking place inside the four walls of these establishments. LB747 would help shed some light on activity that occurs both literally and figuratively in the dark at these bottle clubs. We urge this committee to advance LB747 to General File. Thank you for your time and consideration. [LB747]

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SENATOR LARSON: Thank you. Do I have questions from the committee? Seeing none, thanks for coming today. [LB747]

TOM VENZOR: Thank you. Yep. [LB747]

SENATOR LARSON: Next proponent. Seeing none, I'll take the first opponent. Take the first opponent. Welcome to your General Affairs Committee. Please state and spell your name. [LB747]

SHANE HARRINGTON: Shane Harrington, S-h-a-n-e, Harrington, H-a-r-r-i-n-g-t-o-n. I represent Club Omaha as well as Paradise City and Midwest Girls Club in central Nebraska. I believe LB747 is unnecessary. Our clubs are already regulated by municipalities. Omaha passed a nuisance ordinance specifically directed at us shortly after we opened. We have not been ticketed or warned under this new ordinance. Buffalo County passed an ordinance allowing Paradise City to operate. In our three years of operation we have not been ticketed or warned for any illegal activity. The city of Hastings granted us written permission to operate our club there. I keep hearing all of this public safety stuff, but I don't know where it is because we have four clubs. It's over a thousand nights of operation, over 25,000 people have visited my clubs. I don't know if one reported DUI or car accident from 2:00 a.m. to 6:00 a.m., but that's what everybody seems to have an issue with. We provide Ubers, taxis, carpooling for our members. We make sure everybody gets home safe at the end of the night, just like we would if we invited them to our home. Members are allowed to leave their cars in our parking lots and they won't be towed. Prohibiting operation after 2:00 a.m., it doesn't change anything because we're not...we don't have safety issues. If we had them, I would be sitting here saying I agree with you. But they're not there. They don't exist. Also, minors was a big thing. Minors represent less than 10 percent of our member base. So again, you know, minors drinking and that type of thing is kind of silly. Also, a lot of our members don't even drink. They actually just come in for the entertainment. They don't care. They don't bring booze in. They bring Mountain Dew in. They bring in chips, whatever they want to bring in. So job loss, this hasn't been talked about, hundreds of Nebraskans will lose their jobs if this law is passed. This includes me as the owner, my managers at my four clubs, security guards, DJs, and hundreds of entertainers who work for our companies. Operating after 2:00 a.m., we provide a safe place for Nebraska to legally

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congregate, to get sober, to not hang out in garages, motels, parking lots. We have millions of dollars in insurance. We have security personnel, high-definition cameras, and we maintain a strict member list. We require everyone's ID. Everyone is checked in when they come in. We know every single person that's in our club at any moment. I can't think of a more safe place that you could be. So we request...obviously, the 5:00 a.m. to stay open, we have no issues that are happening. Another...the fiscal note is inaccurate that you have. There is obviously a fiscal problem. My four clubs grossed \$1 million in 2017; 5.5 percent in sales tax was paid to the state of Nebraska--approximately \$50,000. In 2015 and '16, another \$50,000 was paid, combined, in addition to the 1.5 percent sales tax that's paid to Omaha, Hastings, and Grand Island. [LB747]

SENATOR LARSON: (Inaudible.) [LB747]

SHANE HARRINGTON: Closing these clubs would cost the cities over \$10,000 per year... [LB747]

SENATOR LARSON: Please wrap it up, Mr. Harrington. [LB747]

SHANE HARRINGTON: ...and the state of Nebraska \$50,000. All right, let me just add a couple things. [LB747]

SENATOR LARSON: Real quick, two sentences. [LB747]

SHANE HARRINGTON: Two things, okay. [LB747]

SENATOR LARSON: I try to... [LB747]

SHANE HARRINGTON: Hobert Rupe, you can have...we'll comp you a one-night membership. And as for adults, after this hearing I'm wondering if you guys are more babysitters because the way you talk, like adults don't know how to make their own choices and the right decisions, that's silly. But go ahead. [LB747]

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SENATOR LARSON: Thank you, Mr. Harrington. Questions from the committee? Senator Krist. [LB747]

SENATOR KRIST: A couple. First of all, did I just understand that you allow folks who are underage to come in and participate in the entertainment? [LB747]

SHANE HARRINGTON: Of course. [LB747]

SENATOR KRIST: Of course? [LB747]

SHANE HARRINGTON: Yeah, they're of age. You have to be 18 years of age to view a naked person, so that's fully within law. [LB747]

SENATOR KRIST: Okay. And is there any adherence at all to making sure that alcohol is out of the establishment by the...you heard my question before about 1:15 or 2:15? [LB747]

SHANE HARRINGTON: We don't sell alcohol, so that's a law that is provided for people that sell alcohol. But we don't sell alcohol. So it would be like you inviting me to your home. Would we have to put the alcohol away at 2:00? No, we wouldn't. We could drink until 3:00 or 4:00 or 5:00 and that's basically what we run. [LB747]

SENATOR KRIST: This is an apple; this is an orange. These are two different things. If I invite you to my home, we can stay up until the wee hours of the morning, do what we want to do. [LB747]

SHANE HARRINGTON: Yep. [LB747]

SENATOR KRIST: If you're in a public place and you have members or whatever, there's still some compliance issues that (inaudible)... [LB747]

SHANE HARRINGTON: We're not a public place. We're not open to the public. We're in no way, shape, or form a public place. [LB747]

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SENATOR KRIST: Okay. [LB747]

SHANE HARRINGTON: We're a bona fide private membership club. [LB747]

SENATOR KRIST: Okay. And as far as the baby-sitting comment goes, I represent 40,000 people in my district... [LB747]

SHANE HARRINGTON: Okay. [LB747]

SENATOR KRIST: ...and I've had many inputs, both e-mails and letters and conversations, and 1.9 million people across the state. So if there's someone that wants me to engage in a conversation for public safety reasons, which I completely find your logic irrelevant when it comes to public safety; obviously, you're not aware of any DWIs or DUIs, therefore, you think you can continue to do what you're doing. I'm not so sure that that's the case. I know that the underage portion is a concern for the folks at Boys Town and for other folks around because they really don't want their underage--underage as in you define 18 years to 21 years--being in the clubs. [LB747]

SHANE HARRINGTON: I can respect that, that, you know, we...like I said, less than 10 percent are of...you know, under 21 and we would be willing to negotiate on things like that, you know. [LB747]

SENATOR KRIST: So, Mr. Harrington, what do you lose if this goes through? [LB747]

SHANE HARRINGTON: By closing at 2:00 a.m. versus 5:00 a.m.? [LB747]

SENATOR KRIST: No, we're not asking you to do that. This bill does not define closure. It defines when the alcohol has to be removed from across the board, across the table. [LB747]

SHANE HARRINGTON: It's hard for me to say until it happens. I don't know. Will I lose money? Of course I'll lose money. But I don't know...I don't... [LB747]

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SENATOR KRIST: You're going to...your business is going to be open the same hours that you are before. We're just asking you to comply with the alcohol. [LB747]

SHANE HARRINGTON: That's...sir, that's if you even grant me a liquor license. If you don't grant me a liquor license, my whole business closes. So what if I don't get a liquor license? Then literally my businesses close overnight. [LB747]

SENATOR KRIST: Then you'd be on an even playing field with everybody else who has to compete for a liquor license. Thank you, Chair. [LB747]

SHANE HARRINGTON: It's not even playing field. We have 25,000 current members and none of them have been ticketed to my knowledge. So, public safety, I think I would have heard of one person... [LB747]

SENATOR LARSON: Thank you, Mr... [LB747]

SENATOR KRIST: Thank you, sir. [LB747]

SHANE HARRINGTON: ...out of 25,000. [LB747]

SENATOR KRIST: Appreciate it. [LB747]

SENATOR LARSON: Senator Blood. [LB747]

SENATOR BLOOD: Thank you, Chairperson Larson. I just want to build on some of the questions that's...a lot of my questions have already been answered. And thank you for answering Senator Krist's questions. So help me understand. Since you're such a successful businessman, you should probably know what windows of time you sell the most...excuse me, that you do the most business. I know that you don't sell alcohol. I'm very clear on that point. So what percentage of your business is from 2:00 a.m. to 5:00 a.m.? I'm curious. [LB747]

SHANE HARRINGTON: Probably, on the weekends, 65 percent. [LB747]

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SENATOR BLOOD: Sixty-five percent of your business is from 2:00 a.m. to 5:00 a.m.?
[LB747]

SHANE HARRINGTON: Um-hum, yep, because we're the only safe... [LB747]

SENATOR BLOOD: On every night of the week or...? [LB747]

SHANE HARRINGTON: I would say it's 50-50 during the week and about 75 percent on the weekends. [LB747]

SENATOR BLOOD: So, substantial? [LB747]

SHANE HARRINGTON: Yeah, because we're the only safe after-hours club that people can go. There's not fights. There's not trouble. There's not...you know, you're taken care of. You're in, you know, a safe and fun environment with the top DJ in Omaha and it's just a great time for people to, you know, go after the bars have closed. [LB747]

SENATOR BLOOD: And how...you make money through memberships. [LB747]

SHANE HARRINGTON: Yes. [LB747]

SENATOR BLOOD: And what does a membership cost? [LB747]

SHANE HARRINGTON: One-night memberships are \$30 and one-year memberships are \$50, and then there's a membership dues that has to be paid. [LB747]

SENATOR BLOOD: And then the girls make money. [LB747]

SHANE HARRINGTON: Yep. [LB747]

SENATOR BLOOD: And do they have to share any of that with the house? [LB747]

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SHANE HARRINGTON: They...only if they get a private dance. All their tips are theirs. So if they get a private dance, they have to rent the room for the private area because it's like a VIP room and so we have them very decorated and nice and fancy. And so they pay one-third. So basically if it's \$100, they get \$70, we take \$30. [LB747]

SENATOR BLOOD: Is there like a standard menu rate for what a private dance is or...? [LB747]

SHANE HARRINGTON: As far as pricing, it's 15 minutes is \$100. [LB747]

SENATOR BLOOD: Does it go up beyond that? [LB747]

SHANE HARRINGTON: Sometimes people will do a half hour, but pretty much 15 minutes is about the norm. [LB747]

SENATOR BLOOD: And then do you also do private parties? [LB747]

SHANE HARRINGTON: We have done a few, but that's not really...you know, that just hasn't been a niche for us. It just hasn't where people just...they don't really want them because the party itself is so amazing, you know, with the music. And our members make friends with each other and they, you know, they hang out. And again, it's just people work really hard during the week and when 2:00 rolls around, they're just...they're not ready to go home and they want to, you know, enjoy the rest of the night and we provide that sanctuary for them. [LB747]

SENATOR BLOOD: And so seven days a week and holidays? [LB747]

SHANE HARRINGTON: Yep, yep. I mean we close for Christmas Eve, but that's probably about it. [LB747]

SENATOR BLOOD: Out of curiosity, do most of the women that work there work seven days a week or do they have... [LB747]

SHANE HARRINGTON: No, I would... [LB747]

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SENATOR BLOOD: ...are there weekends that they have off? [LB747]

SHANE HARRINGTON: The average girl probably works three days a week, I would say. [LB747]

SENATOR BLOOD: In like eight-hour shifts? [LB747]

SHANE HARRINGTON: Yep, exactly. [LB747]

SENATOR BLOOD: Do you provide benefits? [LB747]

SHANE HARRINGTON: They're independent contractors, so they actually...it's like being a hair stylist. They rent the space of the club. Basically, they rent a locker. [LB747]

SENATOR BLOOD: Oh, so you make money off of that as well? [LB747]

SHANE HARRINGTON: Yeah, yeah. We charge \$20. [LB747]

SENATOR BLOOD: A day? [LB747]

SHANE HARRINGTON: Yeah, yeah. During the week it's \$20, so. [LB747]

SENATOR BLOOD: Okay. Is there anything else? I'm just kind of trying to figure out your business plan. [LB747]

SHANE HARRINGTON: No. No, no, it's perfectly fine. [LB747]

SENATOR BLOOD: So is there anything else that they make money off of? [LB747]

SHANE HARRINGTON: No, uh-uh. I mean we could bring food in and stuff, but it's just...you know, for us it's more of...it's just to have a fun, safe place for adults to go where they don't have to feel like everything is, you know...they want to be private, you know? I have doctors and I

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have attorneys and people like that, that want their anonymity protected. They don't want everyone to know that they're there or where they're going from 2:00 to 5:00 in the morning. And they come in and they look to us to keep that private for them and they entrust us with that. And so some of the things that you guys are asking is taking that trust away that we've built up, that I've spent years and years and years to get. [LB747]

SENATOR BLOOD: And how often a week do you have male dancers? [LB747]

SHANE HARRINGTON: One night a week; on Saturdays, from 8:00 to 12:00. [LB747]

SENATOR BLOOD: And then on those nights, is it women only are allowed to come? [LB747]

SHANE HARRINGTON: No, we have a separate club. Like, there's two clubs in one. And so the men are in the far club for the women so then that way it's separated from the two. [LB747]

SENATOR BLOOD: So why do you think that women are only interested in coming one day a week? [LB747]

SHANE HARRINGTON: My guess: men have testosterone. That would be my guess, like seriously. [LB747]

SENATOR BLOOD: That's kind of a sexist statement there. [LB747]

SHANE HARRINGTON: Yeah, but it's true. I've asked lots of the girls that have come through and that's what they basically say. They don't feel the need to go and watch male dancers, whereas men... [LB747]

SENATOR BLOOD: The women that come through? [LB747]

SHANE HARRINGTON: Yeah, the women that come through to watch the male dancers, they just tell me when I ask them, you know, how often do you come, why, will you be back next week, and they're like, oh, no, I just do this thing about once a month, whereas men I'm not quite

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sure. You know, I mean you'd have to ask, you know, an expert, obviously, on that. My job isn't to, you know, figure out all those questions. [LB747]

SENATOR BLOOD: No, and I'm strictly asking your opinion. [LB747]

SHANE HARRINGTON: Yeah. [LB747]

SENATOR BLOOD: I'm trying to figure out exactly how everything works and get in my mind what's going on and trying to be neutral. [LB747]

SHANE HARRINGTON: Yeah. No, I appreciate it. [LB747]

SENATOR BLOOD: And the thing that I have to say that's very concerning to me, though, is when I receive an e-mail that's threatening by nature but yet nobody has ever contacted me to discuss the issue... [LB747]

SHANE HARRINGTON: Well, we sent the... [LB747]

SENATOR BLOOD: But nobody has ever discussed the issue with me. [LB747]

SHANE HARRINGTON: ...we sent it to other people but no one responded, and so, you know, I mean, I don't even know that... [LB747]

SENATOR BLOOD: Well, with all due respect, sir, I'm a person, an individual, a senator, as Senator Krist is, that represents a lot of good people in Nebraska. And I've got an open-door policy. No one ever called or e-mailed me about this issue. All I ever received was a threatening e-mail. And I...I would think that if this is something that's really important to you, that you might want to find a different way to approach it. [LB747]

SHANE HARRINGTON: And I've tried those ways in the past with things and they never worked, unfortunately. [LB747]

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SENATOR BLOOD: I can't speak on behalf of others. I can only speak on behalf of myself.
[LB747]

SHANE HARRINGTON: Yeah. [LB747]

SENATOR BLOOD: Thank you. [LB747]

SENATOR LARSON: Thank you, Senator Blood. Senator Brasch. [LB747]

SENATOR BRASCH: Thank you, Chairman Larson, and thank you for coming forward today. I'm learning more and more with each testimony and with yours, too. So entertainment is dancers, male or... [LB747]

SHANE HARRINGTON: Dancers, it is the top DJ in Omaha. I mean some of our people come in just to see... [LB747]

SENATOR BRASCH: The top what? [LB747]

SHANE HARRINGTON: DJ. [LB747]

SENATOR BRASCH: DJ, okay. [LB747]

SHANE HARRINGTON: Our DJ, yeah, Nick (phonetic), is considered... [LB747]

SENATOR BRASCH: So sometimes there's just music and no dancing. [LB747]

SHANE HARRINGTON: Exactly, yeah. There's times we take breaks. There's times where we won't bring dancers out. From 6-8 we just play music and people come in and just kind of hang out. It really just kind of depends on who we have in there and how the crowd is and what they want. Sometimes they just want to come in and talk to the girls, so there's no dancing then going on at that time. [LB747]

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SENATOR BRASCH: And, because I'm not familiar with your clubs, but are these girls fully clothed? [LB747]

SHANE HARRINGTON: They start out fully clothed and then it's entirely up to them if they want to get naked. But I mean the whole idea is they are entertainers. They're nude entertainers, I mean, so ultimately most of them do get nude. [LB747]

SENATOR BRASCH: So it is. Okay. And then... [LB747]

SHANE HARRINGTON: But they're not required to. It's not...you know, it's completely up to them. But, you know, that's kind of the idea of, you know, the dancing, I would assume. [LB747]

SENATOR BRASCH: Okay. And your response to...you know, the state is fighting human trafficking and it's problematic. And are you aware of that? [LB747]

SHANE HARRINGTON: Yes, oh, yeah, very aware. [LB747]

SENATOR BRASCH: Are you aware with it being through your club or do you... [LB747]

SHANE HARRINGTON: Oh, no, I... [LB747]

SENATOR BRASCH: Are you watchful for that? [LB747]

SHANE HARRINGTON: Yeah. Oh, yeah. No, we've had zero problems with any human trafficking, with any...I'm the strictest manager. The reason I have four clubs and have opened four clubs in three years, which no one has ever done, is because we do it the right way. And that's what upsets some of the people and that's why we're here today. If I wasn't successful, I had one beat-up club that was going nowhere, we wouldn't be sitting here today. But because I'm four clubs into it and opening two more in the next year, that's why we're sitting here, because they don't want me to be successful. I didn't go to their school, I don't have the right last name, you know, those type of things, and that's why we're here. [LB747]

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SENATOR BRASCH: Okay. Say if...I heard you say your concern was the lack of ability to get a liquor license. So if there was legislation that grandfathered that you were eligible for a liquor license, would you not have a problem with... [LB747]

SHANE HARRINGTON: I would highly consider that. Yes, I would. [LB747]

SENATOR BRASCH: So that's what you believe your... [LB747]

SHANE HARRINGTON: Yep. Yeah, because my fear is that I will be...this law will pass, I'll go apply for my liquor license, and then Hobert Rupe and I haven't always got along the greatest and he ultimately controls the Liquor Commission. I mean he's the chairman, but he kind of pushes them how to vote, and that could be problematic for me. And then, next thing I know, I go from having four clubs to having no clubs and blackballed by the government, and what do I do? You know, like, where do I go find a job? How do I make the money I'm making now? How do I tell all my employees, all my managers, all the girls that refuse to work for anyone but me because we do the things the right way. And we do take care of them and we make sure they make money, we make sure they're safe, you know. What do I tell them when that...if that happens? [LB747]

SENATOR BRASCH: So you are agreeable to being held to the same standards... [LB747]

SHANE HARRINGTON: Yes, yes. [LB747]

SENATOR BRASCH: ...as the retail associations, bars, restaurants, etcetera,... [LB747]

SHANE HARRINGTON: Yes. [LB747]

SENATOR BRASCH: ...that your concern today is not being eligible for a liquor license. [LB747]

SHANE HARRINGTON: Yeah, yeah. I mean ultimately that's what it comes down to... [LB747]

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SENATOR BRASCH: Okay. [LB747]

SHANE HARRINGTON: ...because I'm willing to compromise, but, at the same time, not if that means that I go out of business. [LB747]

SENATOR BRASCH: Okay. I have no other questions. Thank you. [LB747]

SHANE HARRINGTON: Thank you. [LB747]

SENATOR LARSON: Thank you, Senator Brasch. Senator Blood. [LB747]

SENATOR BLOOD: Thank you, Chairman Larson. I like being on this committee because I learn a lot and you just have raised several more questions for me. [LB747]

SHANE HARRINGTON: Sure. [LB747]

SENATOR BLOOD: They're just really brief. And one of them, I was curious, did you hear the lobbyist from the Catholic Conference earlier? Were you here when...? [LB747]

SHANE HARRINGTON: Yes. [LB747]

SENATOR BLOOD: So your patrons aren't allowed to touch the girls, at all, even in the private dances, right? [LB747]

SHANE HARRINGTON: No, they can touch, if the girls allow. [LB747]

SENATOR BLOOD: Okay. [LB747]

SHANE HARRINGTON: It's entirely up to the girls. What consenting adults decide to do, as long as it's not prostitution, is completely legal. [LB747]

SENATOR BLOOD: So they're allowed to touch the girls wherever? [LB747]

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SHANE HARRINGTON: No, not in between the legs. [LB747]

SENATOR BLOOD: Okay, but breasts and... [LB747]

SHANE HARRINGTON: Yep, yep. [LB747]

SENATOR BLOOD: ...and outside of the... [LB747]

SHANE HARRINGTON: Yep. Yeah, we basically went off of the same model that Shakers has done in Nebraska for 23 years now. And so, you know, that's, you know, obviously it must be legal if they've done it for 23 years without receiving a ticket. I called the sheriff of Lancaster County and talked to him and he assured me that those laws were...what they were doing fell within the state laws, so. [LB747]

SENATOR BLOOD: So that was part of your initial business plan when you opened your businesses? [LB747]

SHANE HARRINGTON: Yeah, yeah. And I've got all those documentation and everything from the people I spoke to, so. And we actually sent an e-mail to the assistant city attorney in Omaha and he assured us, as well, that what we were doing was legal before we opened. [LB747]

SENATOR BLOOD: And then I heard you tell Senator Brasch that, in reference to sex trafficking, that you're very careful with your employees. How do you know if one of these women, not girls, one of these women, how do you know that they're not victims of the sex trafficking? [LB747]

SHANE HARRINGTON: We can piss a few of them off. We don't let boyfriends in the club, or pimps. And that's sometimes what boyfriends tend to be. We don't let strangers pick them up. We make sure we know who they're being picked up from, who they are. We walk them out to the car. We go up and actually talk to them, make sure that they're their ride. If anything seems suspicious, we won't let them leave. So, you know, we do our due diligence well beyond what any other club like ours would do. Most people, you know, the owners, they don't care. They just

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kind of toss them out. But, you know, we help them. I've helped girls build their credit up. I've helped girls. You know, like we really take it seriously, you know. We want them to invest their money. I always tell them when they're...you know, when they come on and sign a contract, I just say, if I see you here in two or three years, after that, I will be gravely disappointed in you. This is a stopover point. This is a point to pay off your bills, to put a down payment on a house, to buy a car, to go to college, those type of things--nothing more. [LB747]

SENATOR BLOOD: So how old are...what's the youngest a dancer can be in Nebraska? [LB747]

SHANE HARRINGTON: Eighteen years old in Nebraska. [LB747]

SENATOR BLOOD: So they're not girls, they're women, right? [LB747]

SHANE HARRINGTON: Yeah, I would consider them to be women or I wouldn't hire them. [LB747]

SENATOR BLOOD: Can I ask why you continue to call them girls? [LB747]

SHANE HARRINGTON: It's probably just a statement that they use all the time. They call each other girls--this girl did this--this girl did that--so, you know, I just go off of kind of...when you hear people talk so much, you kind of pick up their lingo, unfortunately. [LB747]

SENATOR BLOOD: I can respect that. All right. Thank you. [LB747]

SENATOR LARSON: Thank you, Senator Blood. Seeing no further questions from the committee, thanks for coming today. [LB747]

SHANE HARRINGTON: All right. Thank you very much for all your time. [LB747]

SENATOR LARSON: Do I have any further opponents to LB747? Please step forward. Welcome to your General Affairs Committee. [LB747]

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JOE EVANS: Thank you, Senator Larson. Good afternoon, everyone. My name is Joe Evans. That's spelled J-o-e E-v-a-n-s. And for transparency purposes, I must say that I am currently employed by Shane Harrington at Club Omaha. I am currently the general manager and operations manager of the club. I have been in the industry, the adult nightclub industry, for well over 14 years. I started out in Oregon, a very strict liquor law state. I have consulted for clubs around the country. I have also been in charge of security planning and operations at multiple clubs. I have done security in clubs in downtown Omaha, the Old Market district, midtown. I have been through numerous classes on human trafficking and safety within the bar and nightclub industry. I also, too, wanted to offer myself, Senator Blood. At any time that you have questions about anything within the adult industry arena, I would be more than happy to answer any questions that you have because I have experience both outside the state and in the state. One thing I have noticed--I have worked for numerous clubs in the Omaha market, both that serve alcohol and that don't; strip clubs, gentlemen's clubs, whatever you wish to refer to them as--and something that I have noticed in Omaha, versus other markets that I have worked in, is with the current rules in effect of the stopping and the clearing up of liquor by 2:00, something begins to happen at 12:30 to 1:15 in the morning and that is sped consumption of alcohol. Something I have not noticed working in BYOB clubs, or bring-your-own-alcohol clubs, whether it be in Nebraska or Iowa, is we don't have the speed drinking. People begin to try to speed consumption before the closing time and/or the end of liquor sales time. I believe that's why we do, in this state, have a higher rate of DUIs, drunk drivers, and accidents that happen at 2:00, because the alcohol level is much higher. I have seen, at BYOB and more after-hours clubs, that liquor consumption has slowed and the intoxication levels are not nearly as high. As well, after-hours clubs, as proven by multiple big cities such as Miami, Las Vegas, Nevada, Seattle, Washington, and L.A., Los Angeles in California, after-hours clubs oftentimes provide a place for people to go enjoy more further entertainment and sober up. If they do continue to choose to imbibe, it is usually at a much slower rate. [LB747]

SENATOR LARSON: Thank you. And it was Mr. Evans, correct? [LB747]

JOE EVANS: Correct, E-v-a-n-s. [LB747]

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SENATOR LARSON: Thank you, Mr. Evans. Do I have questions from the committee? Senator Blood. [LB747]

SENATOR BLOOD: Maybe you can give me a better answer. Can you tell me why I keep hearing women referred to as girls in this industry? [LB747]

JOE EVANS: It's something that I think was embedded back in the start of the industry, when some of the first clubs were coming out, by a couple of different gentlemen. The main names of those clubs were...the first one was the Girls Club, a very well-known popular club in California; the song "Girls, Girls, Girls," which was actually created as a strip club introductory song in the early '80s that has kind of stuck around. And also, if you look at other markets, a lot of clubs use the term "girls" in their advertisement and it's been something that has kind of stuck. I mean there's even clubs in Vegas with names like, you know, Little Darlings, which is one of Vegas' last full-nude operations. There is, of course, multiple clubs in...there's one club in Manchester that's literally called Girls, Girls, Girls. It just...it stuck in the early '80s and never left the industry. You are seeing more of a change now with more clubs choosing names like The Diamond Cabaret, "insert other high-value product name" Cabaret, diamond clubs, gold clubs, you know, cheetahs, jaguars, rhinos. [LB747]

SENATOR BLOOD: You know, I am glad you're giving me a little history on this. I have to say I really have grave concerns about that phrasing because I feel like we're resisting and denying a woman's maturity. I'm not saying anything about your culture as much as the verbiage being used. And as we become more and more aware of the rape culture that's going on, I think the more that we refer to women as girls, the more in some people's minds we justify that they are victims. [LB747]

JOE EVANS: I think what we're seeing even more in the industry as a whole, depending on...you're going to see a lot of it depending on the era of which the person that you're speaking with in the industry refers to them as girls. But we are seeing a trend now where we are getting away from girls and everybody is now referred to as an entertainer because most clubs now do offer mixed entertainment, male and female. With the new generation, of course, with rape culture and the newer generation of feminism, we are starting to see them being more referred to

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as entrepreneurs and/or entertainers. It's going to be a slow change. It's just now kind of starting to happen. [LB747]

SENATOR BLOOD: Do you call the male dancers boys? [LB747]

JOE EVANS: They are entertainers...for me, being in that generation, they're entertainers to me. My female entertainers are entertainers; my male entertainers are entertainers. I don't have male or females that I work with. I work with entertainers. [LB747]

SENATOR BLOOD: Are there any strip clubs called Boys, Boys, Boys? [LB747]

JOE EVANS: Actually, yes, in San Francisco there was. It has been closed for many years but it was more of a LGBTQ type club than a more female-friendly male entertainment type venue. [LB747]

SENATOR BLOOD: Well, shame on them. Thank you. [LB747]

JOE EVANS: Thank you. [LB747]

SENATOR LARSON: Thank you, Senator Blood. Senator Brasch. [LB747]

SENATOR BRASCH: Thank you, Chairman Larson, and thank you, Mr. Evans. Earlier you had said that you've been trained for human trafficking. [LB747]

JOE EVANS: Um-hum. Yes. [LB747]

SENATOR BRASCH: And if bottle clubs are not the right incubator or place where predators seek women for human trafficking, where should this Legislature be looking? Where are...? [LB747]

JOE EVANS: Well, something that I found interesting, I believe it was about three months ago, I went to a neighborhood committee meeting for the neighborhood in which Club Omaha exists.

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And it was a workshop put on by a local FBI agent who was in charge of the human trafficking task force in Omaha. And something that she brought up is massage parlors were far more likely than adult entertainment venues, the reason being is, adult entertainment venues, we have a due diligence that we must follow. And part of that due diligence is looking for the signs when entertainers come in and apply for positions. Out-of-state IDs, there's other signs that I look for if I see an entertainer come in with an out-of-state ID. There are things that I look for if I see an entertainer come in and is being dropped off by somebody using out-of-state plates. There are just signs that don't necessarily point to human trafficking, but they're things that I look for and they're things that I may take note of to report to, you know, the hot line. Other clubs I've worked with and worked for, even in Nebraska, follow the same thing. There's just little cues that we look for because things just don't add up. And with us doing that and not allowing in the boyfriends, we don't allow the sexual contact or the propositioning, that really cuts down on would-be traffickers to come into the establishment. They don't like easy targets. [LB747]

SENATOR BRASCH: Thank you. And Mr. Harrington said earlier his concern is that he may not be selected for a liquor license. Do you share that concern or do you have more concerns with this bill? [LB747]

JOE EVANS: I share those concerns because I've read up on the history and that is...one of the reasons I went to work for Mr. Harrington is the history behind his business and his business model. And it's a business model that I've seen work and it's a business model that I believe in. So I do see some concerns there. Other concerns that I have is I don't see it serve...I don't see it serving the community as the state and the city begin to evolve because Omaha is no longer a small metropolitan. It's growing. It's becoming younger. It's becoming hip and trendier. And people are looking not only for this kind of entertainment but for after-hours entertainment now and the ability to enjoy and imbibe alcohol in a responsible environment. And I think that's going to be changing more and more and this bill will slow down that change. It will slow down possible growth in the bar district and the entertainment districts of Omaha and possibly Lincoln as well. Omaha recently passed laws to allow drinking in public in certain areas of the capital district now because of the coming of College World Series. Well, we'll also be establishing venues and locations for people to enjoy entertainment longer during the College World Series; generating more revenue, generating more tax revenue, and possibly generating more jobs,

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whether it's security people, DJs, floor men, hosts, entertainers, whatever title you wish to give them within the club. [LB747]

SENATOR BRASCH: And then my other is, as far as employers, you're mostly contractors...or how many employees do you employ? [LB747]

JOE EVANS: I don't know company-wide how many employees Mr. Harrington has. [LB747]

SENATOR BRASCH: Okay. [LB747]

JOE EVANS: But entertainers are contract employees. It's a benefit for them as well as a benefit for the club. It makes operating for them easier because some clubs will try to...and there's been numerous lawsuits around the nation about this. Some clubs literally have lawsuits pending against them because they try to say that the entertainers are independent contractors but there are statements in the contracts themselves that don't allow them to be full entertainment contractors, like: you can't work at another club, you can't provide these services at other locations. To where we don't do that. And that is something else I firmly believe in and am appreciative of, of working for this company, is the fact that when we bring on new entertainers I can tell them you're free to work at other clubs, travel, see the country. If you want to use this industry as a way to see the world, do it because you can learn the business practices here, you can learn how to make your revenue here. And if you wish to travel to another market and enjoy yourself such as...you know, we lose a lot of entertainers in the winter to Florida and Arizona. It's, you know, a well-known fact out here. You can lose a lot of entertainers to warmer climate in the winter out here because everything slows down. But come College World Series, come Berkshire Hathaway, come the, you know, agricultural conventions, business is through the roof for us. And it doesn't matter whether it's our club or any other. I've worked at the Spearmint Rhino. I've worked at American Dream. I worked at The Playhouse across the river. I helped open the Rhino when it first opened in Carter Lake. You know, I did some minor consulting back with the old owner of the 20's when it was still open. And those are the hot seasons in Omaha. [LB747]

SENATOR BRASCH: Okay. I have no other questions. Thank you. [LB747]

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SENATOR LARSON: Thank you, Senator Brasch. Senator Blood. [LB747]

SENATOR BLOOD: Thank you, Chairman Larson. I'm sorry, you just...the more I hear, the more questions I have. [LB747]

JOE EVANS: No, you're fine. [LB747]

SENATOR BLOOD: So I don't know if you're aware, but you do know that like the highest rates of sex trafficking are during those events that you called, right? [LB747]

JOE EVANS: That is correct. And actually those statistics have been published numerous times and were brought up in the workshop. But the main thing about most of those cases for human trafficking are usually found in hotels and massage parlors. Adult entertainment clubs, we go through the same...the very strong screening process, at least many of the clubs do in the Omaha metro area, of looking for those signs. We don't bring on a bunch of entertainers before College World Series. We don't bring on a bunch of brand-new entertainers before Berkshire. We have girls that do come in from out of state, but nine times out of ten they're entertainers that I can do one of two things with: I can call the manager or owner of the club that they're telling me they're coming from and verify that they were an entertainer at that club; or (B) they're entertainers that I've worked with in the past already. [LB747]

SENATOR BLOOD: So I was not intimating that you were hiring sex...women or men who had been sex trafficked. I was just curious if you were aware of what that brings to town. [LB747]

JOE EVANS: Yes. Yep, very much so. [LB747]

SENATOR BLOOD: And then these independent contractors, so you don't know how much they take in tips. They don't have to report to you. [LB747]

JOE EVANS: That is correct. [LB747]

SENATOR BLOOD: So you're not giving them a...is it 1099? [LB747]

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JOE EVANS: That is correct. If we were to do that, it kind of also...that is one of those things, depending on other cases that are currently in litigation right now, have proven to get clubs into trouble. Because by knowing how much the entertainers have taken or are making, it causes employees to do what we call "tip pressure." And tip pressure is now being reported and clubs are now being sued in massive lawsuits because of it. [LB747]

SENATOR BLOOD: So they don't get a 1099, so we're assuming that they're filing their quarterly taxes as independent contractor. [LB747]

JOE EVANS: A lot of them do anymore because that's the only way they can prove income. [LB747]

SENATOR BLOOD: So I'd be curious. You know, we're always looking for new things to tax--and services are sometimes one of the things we can tax--with our budget like it is. So, I mean, you gave me a really good idea. We could be taxing this service and that could be really beneficial to taxpayers in Nebraska. [LB747]

JOE EVANS: It has happened in the past and some cities have looked at it. There might be a broad opposition to it, due the fact that this same thought was brought up in Dallas, Texas, when they literally created what was known as the "pole tax." It's a thing. [LB747]

SENATOR BLOOD: Smart name. [LB747]

JOE EVANS: But they found out that with that it actually caused more of a backlash with entertainers trying to find ways to not report income. [LB747]

SENATOR BLOOD: Well, that, of course, would be something that they would have to deal with legally. [LB747]

JOE EVANS: Right. [LB747]

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SENATOR BLOOD: But I am always looking for new ways to bring revenue to Nebraska, so thanks for the good idea. [LB747]

JOE EVANS: As it stands now, many of them do because they need the verifiable income. If you don't have a verifiable income, you're not getting a car, you're not buying a house, you're not leasing an apartment. You have no verifiable income. And then if you're magically making large bank deposits and buying things, the state and the federal government begin to ask a lot of questions. [LB747]

SENATOR BLOOD: Not necessarily. I mean, as you know and I know and probably everybody in this room, there's other ways that you can get around that, so. [LB747]

JOE EVANS: I would say, yes, but more so not as much since Operation Choke Point has started with the federal government about five years ago. It's made that much harder. And especially since 9/11, especially with large cash deposits, people start asking a lot more questions now. [LB747]

SENATOR BLOOD: Thank you. Hopefully I have no more questions. [LB747]

SENATOR LARSON: Thank you, Senator Blood. Senator Krist. [LB747]

SENATOR KRIST: It was asked and answered. Thank you. [LB747]

SENATOR LARSON: Oh. All right. [LB747]

SENATOR BRASCH: Chairman. [LB747]

SENATOR LARSON: Senator Brasch. [LB747]

SENATOR BRASCH: Thank you. Like Senator Blood, I do have other questions. Okay, so the model, business model, is your business built around the male and female adult entertainment? [LB747]

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JOE EVANS: I would say we see more clients, especially in the after hours, that are there for the entertainment purposes, not the alcohol. [LB747]

SENATOR BRASCH: And if you were to have a liquor license, many have ordinances that prohibit nude entertainment with a liquor license, is that... [LB747]

JOE EVANS: Correct. [LB747]

SENATOR BRASCH: And so you would need to switch your business model. [LB747]

JOE EVANS: I do believe that could possibly affect the business model, yes. [LB747]

SENATOR BRASCH: And hearing Mr. Harrington and yourself, that you still believe you can build your business without the male and female adult entertainment? [LB747]

JOE EVANS: I think there is a huge open position for after-hours clubs and bottle clubs that do not have any sort of adult entertainment. Something that hasn't been brought up--which I was highly surprised about because the, you know, the lady from Omaha did bring up the club in south Omaha--but nobody has talked about the other after-hours party clubs and bottle clubs that have been operating in the area, as well, which was surprising. But what it's going to show is, once again, the city is growing and more people are looking for after-hours entertainment, especially with the generation that we have that, well, doesn't sleep anymore or doesn't sleep like we used to. A lot of people don't even get off work till 8:00, 9:00, 10:00, then they do dinner, then they go out, and they don't want to be out for just two hours when they hit the club at midnight. They want to stay out later. And so many of them enjoy being able to go and enjoy drinks. And if you look at a lot of the economy around Omaha and in the Council Bluffs area, a lot of factory workers, trucking, cargo, swing shifters, "graveyarders," they have nowhere to go. So why not allow them a place, why not allow somebody who didn't get off work till midnight, 1:00, a place to come in and imbibe alcohol and enjoy their source of entertainment, versus somebody who gets off at 6:00? [LB747]

SENATOR BRASCH: Okay. I have no other questions. Thank you. [LB747]

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SENATOR LARSON: Thank you, Senator Brasch. And maybe I should have asked this from Mr. Harrington, but it just kind of came to me. He did mention in terms of taxes paid by the club. [LB747]

JOE EVANS: Um-hum. [LB747]

SENATOR LARSON: And if you can't answer it, I'm sorry. Like I said, I should have asked him. What...is it...he mentioned income taxes and sales taxes. So are the sales taxes on soda and ice and things of that nature or is there...I guess I'm not sure. Is there a sales tax on memberships? He's shaking his head, yes, that there's a sales tax on memberships. Okay. [LB747]

JOE EVANS: There you go, sir. [LB747]

SENATOR LARSON: Okay. [LB747]

JOE EVANS: Because I know at our particular... [LB747]

SENATOR LARSON: I just didn't know, because I...and the tax portion has been mentioned, so I was just wondering what... [LB747]

JOE EVANS: Yeah, I wouldn't be 100 percent sure at all. The clubs, I know at our club, if he's nodding yes, and that would be. But we don't do ice or any other products past that, so. [LB747]

SENATOR LARSON: Okay. And do you charge for those things, ice and soda and... [LB747]

JOE EVANS: We don't offer those. [LB747]

SENATOR LARSON: Oh, you don't offer those? [LB747]

JOE EVANS: Nope. Customers have to bring those in themselves. [LB747]

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SENATOR LARSON: Okay, so most...so I would assume the income, obviously you pay income taxes off...he talked about the contractual nature with the renting of the rooms and whatnot. All that income is based off the income tax and then the sales tax would just be on membership. [LB747]

JOE EVANS: I'm going to say whichever direction his head is nodding, that would be your answer. I don't do the books. That's the one part I'm not part of, so. [LB747]

SENATOR LARSON: Okay. I was just wondering where those came out. [LB747]

SHANE HARRINGTON: We pay it on everything. [LB747]

SENATOR LARSON: All right. Any further questions? Seeing none, thanks for testifying, Mr. Evans. [LB747]

JOE EVANS: Um-hum. And like I said, if anybody on the committee has any more questions, I believe my contact information was on the blue form, so feel free: e-mail, phone. I have no problem answering questions about the industry as a whole and I've done it for numerous states' city commissions, so. [LB747]

SENATOR LARSON: All right. Thank you. [LB747]

JOE EVANS: Thank you. [LB747]

SENATOR LARSON: Any further opponents to LB747? Any neutral testimony? Come on up. Yep. Are you opponent or neutral? [LB747]

CASSANDRA SCHUETH: Yeah, opponent. [LB747]

SENATOR LARSON: All right. Welcome to your General Affairs Committee. [LB747]

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CASSANDRA SCHUETH: My name is Cassandra Schueth, C-a-s-s-a-n-d-r-a S-c-h-u-e-t-h. I've been a dancer for four years. I've worked at five different clubs. Two of the five have been for Mr. Harrington. I've been working with him for a year. This is one of the safest clubs I feel that I can be at. I did pay attention to when someone else has mentioned about being nude and if we're like forced to do it: no. This club is one club we don't have to get naked right away. I've worked at clubs where you can actually get penalized for not getting naked right away on stage. We do pay a percent on our dances, but this club has helped me in many ways. I have raised my credit score. Mr. Evans has helped me get places. He's wrote me letters of recommendation. He's helped me change my life. I've actually gotten a lot better with my stuff. I'm trying to go back to school. Sorry. [LB747]

SENATOR LARSON: It's okay. [LB747]

CASSANDRA SCHUETH: But, no, I've been to five different clubs, like I said. Two of them, I wouldn't want to work for anywhere else. I've worked at Mr. Harrington's other club out west. It's very relaxed, laid back. A lot of our customers don't drink the whole time. They do like to just come talk. I have many regulars who just like to talk. They come in. We talk about our day, talk about work, because people do. They need, you know, time to come home and they can't talk to their wife sometimes or whatever, you know. They need somewhere they can relax and just come talk to someone. I mean you guys do eight-hour shifts. I mean, what's the difference of someone going to a bar after work at 5:00, drinking till 10:00, then someone coming to a club at midnight until 2:00 to drink, 3:00 to drink, like...but we don't have problems, no DUIs, safe environments. Our security guys are really well trained. Yeah. [LB747]

SENATOR LARSON: Thank you. And what was your last name again? I'm... [LB747]

CASSANDRA SCHUETH: Schueth. [LB747]

SENATOR LARSON: Schueth? [LB747]

CASSANDRA SCHUETH: Yeah. [LB747]

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SENATOR LARSON: Okay. Do I have any questions? Senator Riepe. [LB747]

SENATOR RIEPE: Senator Larson. I would always...only comment that you're a very brave woman to come forward. It took courage on your part, so thank you. [LB747]

CASSANDRA SCHUETH: I support Mr. Harrington 100 percent. Like I said, he has definitely helped me with many things. Like I said, my credit, I've been working on that. I'm trying to go back to school. I don't feel pressured at his club. We don't have to get naked right away on stage. It's how you feel. If you feel comfortable, we just...we have a lot of customers that just like to talk, I mean. [LB747]

SENATOR LARSON: Okay. Senator Blood. [LB747]

SENATOR BLOOD: Thank you, Chairperson Larson. Thank you for coming and testifying. I can tell your nervous. There's nothing to be nervous about. Were you asked to come and testify? [LB747]

CASSANDRA SCHUETH: No. No. [LB747]

SENATOR BLOOD: So how did you find out about this bill? [LB747]

CASSANDRA SCHUETH: I've actually been promoted at the club to work as a hostess, as well, and so they do kind of talk to me about some things. I've been able to help give, like, a dancer's opinion on stuff. And, yeah, we were just talking about it and I asked, hey, you know, do you guys need a dancer's opinion? I mean what better way to get...find out anything about dancing than ask a dancer, you know, so. [LB747]

SENATOR BLOOD: And so do you feel empowered when people call you a girl? [LB747]

CASSANDRA SCHUETH: Honestly, it doesn't affect, it doesn't bother me. Ma'am, Miss, woman, girl, it doesn't bother me. [LB747]

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SENATOR BLOOD: How old were you when you started dancing? [LB747]

CASSANDRA SCHUETH: It was right before I turned 21 and I'll be 25. [LB747]

SENATOR BLOOD: Thank you. [LB747]

SENATOR LARSON: Thank you, Senator Blood. Any further questions? Seeing none, thanks for coming today. [LB747]

CASSANDRA SCHUETH: Thanks. [LB747]

SENATOR LARSON: Do I have any further opponents to LB747? Seeing none, neutral? Seeing none, Senator Thibodeau, would you like to close? [LB747]

SENATOR THIBODEAU: Thank you, Chairman Larson. And I know this hearing has been long. I would like to thank everybody who came down to testify today. I know it's not always the easiest thing. I just have quite a few notes. I will try to get through them as quickly as possible out of respect for our committee's time and the next bill that we need to hear. First I just wanted to address that we've heard from one certain club today. This bill is not intended to go against one certain club. I mean, as we heard, there's other types of these clubs opening up. So I guess, to start off on a light note, Senator Chambers kind of came to mind and I would kind of hear him singing, "You're so vain, you think this song is about you" type thing because this really is for any type of club that would be trying to open. We need to close this loophole, especially if we're opening clubs that we're going to be throwing axes and that type of thing. It's not closing the clubs down. They're operating as a nightclub. They even said that you can purchase a one-night membership. To me, that's a nightclub. That's a business. That is not a membership club. They're paying income tax on those things, so that's a legitimate business. They should be under the control of the Liquor Commission. We heard some testimony regarding that their clubs are safe, that they have no problems. And that's great if they have no problems. But we've heard other testimony stating otherwise. However, they may not have any problems, but how do we know whether clubs won't open that will have problems? And why should we allow that to happen before we react? They talked about minors are less than 10 percent of their membership,

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however, they stated that membership is about 25,000 people, so that's still a couple of thousand people under the age...or 18...under the age of 21, between 18 and 21, entering the clubs. I would like to address testimony by Mr. Grasz and Mr. Venzor, as well, because it did bring up some concerns. With that, I would like to ask that if these concerns, you know, are brought up, that there is an investigation, that the Attorney General work with local law enforcement to ensure that these clubs are safe. One of the things is these members are not allowed into clubs right now. They mentioned that they were under a nuisance ordinance for the city of Omaha and so, therefore, they have had no incidences. However, this nuisance ordinance does not allow law enforcement to enter the club for investigational purposes. And there was testimony that the girls are allowed to be touched and so I do have some revised statutes with me for the Nebraska Revised Statutes that actually defines intimate parts. "Intimate parts means the genital area, groin, inner thighs, buttocks, or breasts." So we did hear today that breasts and buttocks are allowed to be touched. "Sexual contact means the intentional touching of the victim's sexual or intimate parts or the intentional touching of the victim's clothing covering the immediate area of the victim's sexual or intimate parts," so there we have the definition of intimate parts and what sexual contact means. Later in statute it says, "any person who performs, offers, or agrees to perform any act of sexual contact," which I just defined, "or sexual penetration, as those terms are defined in section 28-318, with any person not his or her spouse, in exchange for money or other thing of value, commits prostitution." So this may be between two consenting people, but one is accepting money for this. So if this is happening, again, I would go back to the Attorney General's Office and local law enforcement to investigate this. As far as this bill goes, it is certainly just concentrating on going under the guise of the Liquor Commission and having these places be responsible, just as every other bar and tavern in this state are responsible and held accountable to the Liquor Commission. Thank you for your time, committee members and Chairman Larson, today. If you have any further questions I can ask them now. Otherwise, I look forward to an Executive Session on this bill, to where this committee could hopefully move forward. [LB747]

SENATOR LARSON: Thank you, Senator Thibodeau. Any questions from the committee? Seeing none, thank you for your testimony. And I'll close the hearing on LB747. Welcome to your General Affairs Committee, Senator Krist. And, I'll wait for the room to clear out, if you don't mind. That way you don't have conversations in the back. [LB747]

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SENATOR KRIST: Just say when. [LB679]

SENATOR LARSON: Looks good. [LB747]

SENATOR KRIST: (Exhibit 5) Good afternoon, Senator Larson, members of the General Affairs Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t. And I represent the 10th Legislative District in northwest Omaha along with the north-central portion of Douglas County, which includes the city of Bennington. And I appear before you today in introduction in support of LB679. LB679 changes the distribution of taxes permitted to Charitable Gaming Operations Funds. LB679 states that the State Treasurer will transfer the first \$500,000 collected each fiscal year, an increase from the current \$50,000, through the Charitable Gaming Operations Fund and Compulsive Gamblers Assistance Fund. After that initial transfer, the State Treasurer will transfer 7.5 percent of the remaining balance in the fund to the Compulsive Gambling Fund and 60 percent of the remainder to the General Fund. Through LB679, the remaining 40 percent balance of the Charitable Gaming Fund is available to the Charitable Gaming Division for administration and enforcement. Because problem gambling adversely affects Nebraska's families, the proper funding of the Compulsive Gamblers Assistance Fund is vital to our state and residents. LB679 ensures that this institution has resources they need to provide education, counseling, and support to families affected by problem gambling in our state. Commission on Problem Gambling has been doing what they Legislature directed it to do; expanding the available services, training new counselors, developing new initiatives for the prevention and education...for prevention and education. LB679 seeks to increase the revenue beginning in the next biennium by allocating a larger share of the proceeds of the Charitable Gaming Tax to the program without any tax increase, without reducing the local profits that our communities use for their needed purposes, and without impairing the ability of the Charitable Gaming Division of the Department of Revenue to do its job. Those are three very important distinctions. Without increasing program revenue as proposed in this bill, the commission will have no alternative but to reduce the scope of the program by at least 20 percent in order to bring expenditures down to match the current revenue stream. Without LB679, the programs will be moving in the opposite direction of the Legislature's intent. I handed out to you some Q and A that you may be interested in. The first I would bring to mind. Those of you who were here in 2003, I proposed and we passed...it's from 2013, I'm sorry, proposed and passed LB6, which basically took the

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Problem Gambling Association and formed the Commission. Until that point, the funds that were set aside 1993 were being used by Behavioral and Mental Health in the Department of Health and Human Services. And in my estimation, and many other estimations, incorrectly in terms of how those moneys were being distributed. We very clearly said in LB6, we want you to do your job. We realized that the addiction to gambling is, indeed, an addiction very similar to any other addiction that you would talk about. And that treatment of that addiction was essential. Particularly when it comes to a person who is so addicted that it is affecting the family and the individual, creating a problem within the productivity of the individual in society. And, basically, an inability to get along because of the addiction to gambling. There are people behind me who I have a lot of respect for. We have worked together trying to build the commission in a way that is both frugal, it's efficient, it's economical, and yet we have expanded--I'll let them toot their own horn because they need to--we have expanded those capabilities. Those folks who are working out there with the problem gamblers, those counselors and the diversion of the addiction many, many fold. I believe that you all know it's not just the casino on the corner, it's the casino that surrounds us in all the other states. It's not just the brick-and-mortar, it's your own computer or your kids' iPhone or his own computer...his or her own computer, that allows him to tap into gambling. It is what it is. It's a part of our society, and if it does exist and if there is an addiction and there is something that we can do to help with that addiction, this is the answer. Now, I would have hoped that this may have gone to Appropriations because, in terms of money from pot to pot, I think the Appropriations Committee can do a good job of that. I'm not necessarily convinced that it shouldn't have come here because this is where gambling decisions are made. The combination of those two committees will be able to look to see if we do need to, again, reinforce our problem gambling assistance programs. And essentially, if I have enough support here, I may actually still, this year, go back to Senator Stinner and ask them to look at appropriations for the next two years that will allow us to move it in the right direction. I also am not bold enough to think that we came up with exactly the right number. Maybe there's a phase-in of that number over the next four years that keeps these services continuing. But the reality of the situation is that when we divided problem gambling from the Department of Health and Human Services and we took it out of the Behavioral and Mental Health area, they had a cash fund that existed. And they have been dipping in to that cash fund continually over the last few years trying to broaden the services and get to more people. And that's what's important here, is getting the services to the people. Under its present spending rate, it will not be sustainable. And

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that's why we call for almost a 20 percent reduction in services if we don't do something now. And by doing something now, I don't mean this very minute. I mean phasing it in, potentially, or putting these numbers in place over the next few years. With that, Vice Chairman, I'll stand...sit for any questions. [LB679]

SENATOR THIBODEAU: Any questions from the committee? Senator Brasch. [LB679]

SENATOR BRASCH: Thank you, Madam Chairman. And thank you, Senator Krist. I did, in listening to you, you talked about, you used the words "if" there is an addiction. But I believe it's "when" there is, because we have heard this many times in different capacities, but I think it's important to say "when." We've heard it on the floor, we've heard it, you know, from those in this...and it is a growing issue. When I...I see there is a fiscal note here that I'm just wondering if there's any forecastable upside to the fiscal note? If that goes up, do we see another area go down? You know, is there a balance? Is there some predictability in... [LB679]

SENATOR KRIST: Right. [LB679]

SENATOR BRASCH: ...in the investment here? [LB679]

SENATOR KRIST: Well, thanks for asking the question. And, indeed, there is. There's a rebalancing of the monies that we have. Not to the extent it will interfere with the administration of the Revenue Department in carrying on Charitable Gamings. Not to the extent that it will bankrupt any other area. But if you look at the bottom of that first page of the fiscal note, it does project '18-19 \$0, \$0; and then '19-20 General Funds of \$536,400, Charitable Gaming \$307,600, and then \$844,400 for the Compulsive Gamblers Assistance Fund. So, there's a shifting of the dollars from those proceeds in General Funds. So there will be a reduction in General Funds and a redistribution of that money in to the areas that we think are most important to continue with those services. And again, I'm not naive enough nor bold enough to say those numbers are exactly what they need to be, but it's a pretty good guess in sustainability in moving forward. And when Mr. Geier and I talked about this over the last few years, there's always been a question about how hard or how impactful we want to be at the beginning of this. And I've told him all along; in the art of negotiation, if you don't ask for it, you can't negotiate your way down

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to a realistic number if that's what we're trying to do. But if you go back to the well too many times, I think you also dilute the effort. So, I believe this is a good guess, I believe this is an accurate guess of what it will take to sustain the program. But, again, it's negotiable. [LB679]

SENATOR BRASCH: And just one more; there seems to be a lot of commercial paid advertising through the Charitable Gaming. And I'm just wondering if those cash funds would help fill the gap. I'm not certain how much TV, radio, gadgets, gizmos... [LB679]

SENATOR KRIST: Yeah. [LB679]

SENATOR BRASCH: ...incentives that they truly need to get people to gamble. If that's ever been discussed on taking a look on what their paid advertising is. [LB679]

SENATOR KRIST: In 2013, there was a very large, in-depth discussion about what was going on. And I think to reach the greatest audience--and you can ask that same question of the counselors and Mr. Geier to follow--but they evolved from putting a billboard on the side of the road to actually getting into social media and trying to reach people in a different way. Which is less expensive in the long run, as well. So, I think they have looked at those alternatives. Maybe it's time to take another look at it and see what's more efficient and what's more effective in terms of moving forward. I know my generation, if we saw a billboard that was how we learned that smoking was bad for us, right? Or we looked at the back of our cigarette packs to find out it wasn't...not that I ever did that, but. You're looking at the written word, but today, social media is so effective and less expensive. So maybe it's time to look at it again. [LB679]

SENATOR BRASCH: I have no other questions... [LB679]

SENATOR LARSON: Senator...oh, I'm sorry. Senator Blood. [LB679]

SENATOR BLOOD: Thank you, Chairman Larson. And thank you, Senator Krist. Can you give me a brief response to the technical note on your fiscal note? [LB679]

SENATOR KRIST: Take me to the spot. [LB679]

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SENATOR BLOOD: On your fiscal note, says; we believe the new language is unclear and can be interpreted to mean...blah, blah, blah. It's right above... [LB679]

SENATOR KRIST: Yeah, so they only utilize 40 percent of the remainder of the Charitable Gaming Funds after transfers. I think that has to do with when I talked a little bit about the cash fund and what is sustainable and what is not. That that is, I believe, and you can ask Mr. Geier when he comes up here too, but in discussions with Mr. Gibbs and others in the Fiscal Office, whether or not they can spend the money that would be put in to the fund or whether that fund is sustainable long-term in terms of services. [LB679]

SENATOR BLOOD: I think they're worried about when...it says; "in addition, the bill does not specify when the transfers described above are to occur." When would the transfers would be made? [LB679]

SENATOR KRIST: I'll let Mr. Geier answer that question. [LB679]

SENATOR BLOOD: And then, you and I have talked about this before, I'll build on what Senator Brasch said; they spend \$7 million on advertising for the lottery and any marketing company in Nebraska or outside Nebraska that gets that gig knows that it's the golden goose. And that's the concern that I have. And I had tried this year and last year to talk and was told that it was taboo, no matter who I spoke with. They don't want to touch that money. And I wonder if there's some way we can broach that, because \$7 million does sound like a lot when we have entities struggling. [LB679]

SENATOR KRIST: When you're referring to spending that kind of money, you're referring to advertising the capability of making millions by betting on the lottery. Not necessarily in the advertisement that I'm talking about. I just want to be clear, that advertisement I'm talking about is where to seek help, the 1-800 number, what an addiction looks like, and those kinds of things. I have agreed...when we talked earlier, and several times, I agree. That's a lot of money to advertise for the lottery itself. And I think that that amount of money is decided upon with Charitable Gaming in the Department of Revenue. Which, by the way, now that you've asking for my opinion; we talk about expanded gambling. Our own revenue department has added so

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many games, you can gamble 7 days a week, 365 if you wanted to, 24 hours a day. That was never what was the original vote in terms of bringing in charitable gaming in to Nebraska. And so, that hasn't helped in terms of the amount of people that Senator Brasch has spoken of, that will be addicted. It's not "when" it's "if," so. [LB679]

SENATOR BLOOD: And I have to say, the concern that I have, and I'm not trying to blow out your candle, but I look at other types of addictions and what does the state provide for those addictions. And it's not comparable. And then when we're looking to fund and expand, I'm not hearing; do we utilize volunteers in our organization in Nebraska, at all, like other states do? Do we use a lot of volunteers? [LB679]

SENATOR KRIST: Yeah, I would ask that question of the counselors to follow. And I know that there are volunteers that are part of the process. But, I'm going to...you're not blowing out my candle, because I've been pretty strong on this subject the whole time. One of the reasons why gambling addiction money was voted in as part of the package was that there was an understanding that with new games and gambling, there would be a, quote-unquote, new addiction and that would have to be addressed. People who made decisions about that money and addictive...and the treatment of addictions in the past, took that gambling money and mixed it in with behavioral and mental health and substance abuse money. So, to your point, I don't think we should take a pot of money and even out how we're spending it. I think which we'd fund mental health, behavioral health, and substance abuse in an appropriate way, don't take away from a fund that's already been part of our constitution in terms of how it was voted it. But I don't disagree with you, we're not spending enough money for those treatments on those other addictions. And that's part of our larger problem with behavioral and mental health and substance abuse. And you can ask Chairman Riepe, and he can give you the lowdown on that one. [LB679]

SENATOR BLOOD: That's fair. [LB679]

SENATOR LARSON: Thank you, Senator Blood. Senator Riepe. [LB679]

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SENATOR RIEPE: Thank you, Chairman Larson. This is just a...Senator Krist, a question for clarification. With our constantly going after the General Fund or the cash funds and everything else, is this kind of a firewall for some protection to the Compulsive Gamblers Assistance Cash Fund? Trying to get a firewall between this and being...funds taken away from the General Fund? [LB679]

SENATOR KRIST: You...in terms of reverse logic, I think you could imply that we're protecting a fund that needs to be protected in terms of having those services. But I also think it brings to light and highlights the fact that, at the present rate, it's not sustainable as it would go. So, both of those things are important to realize. And that's...we make those decisions all the time. Do we take money from here and put it there? And so, I appreciate your insight, but I think more than that it's about looking at the proper amount of money to sustain the services that we already have. [LB679]

SENATOR RIEPE: Okay, thank you. [LB679]

SENATOR LARSON: Thank you, Senator Riepe. Seeing no further questions, thank you, Senator Krist. Have any proponents? One, two. Welcome to your General Affairs Committee. [LB679]

MARK CANADA: Thank you. [LB679]

SENATOR LARSON: Yeah. [LB679]

MARK CANADA: Good afternoon, Senator Larson and the rest of the committee. Thank you for having me. My name is Mark Canada, M-a-r-k C-a-n-a-d-a. I live in Hastings. Went to Hastings College and currently employed by Five Points Bank in Hastings, have been for about 12 years now. I am also currently the chair of the Nebraska Commission on Problem Gambling, which, obviously, directs the Gamblers Assistance Program that we're here discussing. I've been a commissioner since July of 2013, which is when the program started in its current form. Ever since our program was created, we've had annual appropriations that have exceeded our annual revenue sources. Even though we've operated well within our budget, program spending has

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always outpaced the revenue sources that we've had. This has only been possible because our program began with a cash fund, that Senator Krist alluded to, that was approximately \$1.7 million on July 1, 2013. Now, I'm a banker, so I'm a numbers guy, so you're going to hear some numbers spit out to you. And, essentially, what's happened is over the first several years of operations, we've had an appropriation that's approximately \$1.8 million and we're spending close to that. But our annual revenue stream has been closer to \$1.5 million. In the second year of operations, for example, we had an appropriation that was over \$2 million, revenue was \$1.6 (million), expenditures were \$1.8 (million). Year three; base appropriation was \$1.88 million, spending was \$1.73 (million), revenue was only \$1.56 (million). That reduced the cash fund balance to approximately \$1.3 million. And the most recent fiscal year; our appropriation is, again, \$1.88 million, along with carryover spending from the unused appropriation from the previous year, we have a total appropriation of just over \$2 million. Once again, revenue was static at \$1.5 million, spending was approximately \$1.84 (million). Essentially what's happened is from July 1 of 2013 to June 30 of 2017, our cash fund has been drawn down from just over \$1.7 million to right at \$1 million. Now, looking at the rest of this fiscal year, as well as the remainder of the biennium, we project that we will be likely down to \$700,000 in that cash reserve at the end of this year, and \$400,000 by the end of the next biennium. Again, each year our spending has been under the appropriation and within our budget but has exceed the revenue source. Now, the revenue sources have been unchanged for years. We get \$250,000 from the Healthcare Cash Fund; approximately \$900,000 from the state lottery; and approximately \$300,000, which is actually a percentage of the \$7 million you were alluding to that they spend on advertising, that's 5 percent a year, is what we get from that, and \$50,000 we get from Charitable Gaming. Now, that \$50,000 has been unchanged since 2001 and is disproportionate to the types and extent of gambling that Nebraskans participate in and ultimately become addicted to. This would be corrected by the formula proposed in LB679. I see my light is red, I just have one more point that I would like to make that Senator Krist already touched in. And obviously at current levels of revenue and spending, the program is not sustainable. We have goals of increasing the program further to unserved areas of the state. And that would not only be not possible with current revenue sources, but we'd further have to cut services by approximately 20 percent by the next biennium if we keep our current revenue sources as they are today. Thank you. [LB679]

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SENATOR LARSON: Thank you, Mr. Canada. Senator Riepe. [LB679]

SENATOR RIEPE: Chairman Larson, thank you, very much. Is your organization an 501(c)(3)? [LB679]

MARK CANADA: No, it's a division of the...I mean, it's a state commission. [LB679]

SENATOR RIEPE: A state commission. [LB679]

MARK CANADA: Yes. Yes, sir. [LB679]

SENATOR RIEPE: Is there any provision or arrangement that a person could set up a charitable organization to meet your shortcomings in cash? [LB679]

MARK CANADA: You know, that's an excellent question and... [LB679]

SENATOR RIEPE: Hopefully something that events would not be gambling events, but... [LB679]

MARK CANADA: Sure, sure, that might be a better question for our executive director. But I honestly couldn't answer that one with anything more than an educated guess. [LB679]

SENATOR RIEPE: Coming from the hospital business, we're always looking for free money. [LB679]

MARK CANADA: I'm just a banker, I just stare at the numbers, I guess. I'll let you smarter people figure out the important matters. [LB679]

SENATOR RIEPE: Thank you. Thank you, Mr... [LB679]

SENATOR LARSON: Thank you, Senator Riepe. See no further questions, thanks for coming today. Canada, right? [LB679]

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MARK CANADA: Yes, sir. [LB679]

SENATOR LARSON: Thank you. Welcome back, Mr. Geier. [LB679]

DAVID GEIER: (Exhibit 6) Thank you, Chairman Larson. Members of the committee, my name is David, D-a-v-i-d, Geier, G-e-i-e-r, director the Gambler Assistance Program. I've given you a colorful handout that's got some information on it. First page shows you basically the uneven distribution of funding for the program. There have been a couple of questions about it, and I want to be very clear about it. We get, basically, money from two types of gambling; lottery, which is in the constitution, and also that ad money, and then Charitable Gaming, which is primarily keno. And they're separate streams of money. The other graphs that are attached to it that are being handed out to you now, they illustrate some of what we're dealing with. For one thing, we want to put an emphasis on education and prevention activities. We are exploring opportunities to develop an education program in the public schools of Nebraska, colleges, there's a program that is operated by the State Treasurer Stenberg called EverFi. The EverFi company provides a financial literacy course in 170 schools in Nebraska. We've approached those people about including information about gambling, because we think that financial literacy for high school students should include some knowledge about gambling, about what happens when you gambling, and what the risks are when you gamble. Today, there's no such thing being taught in the schools. A second entity that we have approached is called Inceptia. Lincoln-based company that is providing, again, a comparable financial literacy program. This is in colleges and universities and high schools around the nation. And if we can get some programming into these kinds of activities, we can do what we want to do, which is to head off gambling addiction at the younger-people end of the pipeline. You see in the displays you've got in front of you here; gambling starts young, progresses to addiction later on. We want to intercept that at the early age so that we can reduce the level of addiction and the number of problems that we have. The fiscal note, Senator Blood brought this up, the fiscal note focuses on a lack of clarity in the language in the statute. The proposal, no doubt, intends that the Charitable Gaming Division would have the full use of the 40 percent remaining after the other transfers are made. So the projection is that the Charitable Gaming Division would continue to receive an annual surplus, \$300,000 to \$400,000 a year above what it cost them to operate the division. There's no intention with this bill to impair the ability of the people in the Charitable Gaming

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Division to do their job. This would be a bit of a firewall, but not much. The firewall we have is in the state constitution that's about the lottery money. Keno, Charitable Gaming not protected by such a firewall. [LB679]

SENATOR LARSON: All right, thank you, Mr. Geier. Questions from the committee? Senator Blood. [LB679]

SENATOR BLOOD: Thank you, Chairman Larson. So, what percentage of workers do you have that are volunteer? Or do you have volunteers at all (inaudible)... [LB679]

DAVID GEIER: We really don't have any volunteers right now. [LB679]

SENATOR BLOOD: Are you aware that many other states do utilize volunteers for their programming? [LB679]

DAVID GEIER: As a matter of fact, a lot of states rely upon volunteers. And the problem...volunteers come and go, and they're more or less effective. When it comes to the provision of the counseling therapy service for the people diagnosed with this addiction, volunteers can't do it. People have to be trained and they want to earn a living at it. So if you go to a licensed mental health practitioner, ask them to volunteer their time to provide counseling to somebody like this the answer will be; sorry, I don't have time to do volunteer counseling service. That's really the major focus of what we do. Our budget is...about two-thirds of our budget is devoted to counseling services. The part that we use for education and prevention is specified in statute and we can only use it for that purpose. Volunteers, you know, would be useful for passing out local information and, you know, getting the word out in the communities, but we don't find that it's effective at all. [LB679]

SENATOR BLOOD: So you've tried it, because you tell me that you don't find it effective? [LB679]

DAVID GEIER: Not since the commission has been in existence starting in 2013. I think there were some volunteers back in the early '90s, when the program first started. Under the first

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lottery act, and in those early years. But again, Nebraska hasn't really been trying to use volunteer services for this kind of activity. [LB679]

SENATOR BLOOD: Now, I can't remember, and I know you've been here before. Are you, yourself, a psychiatrist or a psychologist? [LB679]

DAVID GEIER: No, I'm not. Unfortunately, I'm a lawyer. (Laughter) [LB679]

SENATOR BLOOD: I won't even comment on that one. You know, my theory; if you throw a rock in this building, you can hit a lot of lawyers. So, here's the thing that I find concerning, and I'm not questioning whether I think there's a problem or not a problem; there have been, for decades, crisis centers in Nebraska who train volunteers to do peer counseling with victims of abuse, both sexual and physical, to work hotlines. So, the concern that I have is when you tell me, as a lawyer and not as a mental health practitioner, that it just doesn't work. And I'm not seeing anything that tells me that that's, indeed, true. [LB679]

DAVID GEIER: Well, we're dealing with a diagnosis of an addiction. Our counselors adhere to the Diagnostic and Statistical Manual of the American Psychiatric Association. Addiction to gambling is at the same level of significance as addictions to drugs and alcohol. Certainly we have Alcoholics Anonymous, there are peer support groups for people in recovery from various forms of addiction. That's true. And there are...we do...as a matter of fact, we have organized Gamblers Anonymous programs. One of our people has organized and is actually conducting Gamblers Anonymous in Grand Island and Kearney. There's a Gamblers Anonymous in Lincoln and one in Omaha. These are fairly active. And the people who actually conduct the meetings are volunteers. That's recovery support, but when you're talking about therapy for the addict, the professions of behavioral health and mental health generally rely upon paid professional counselors to provide these services. These people are highly trained, nearly all of our counselors are already licensed mental health practitioners and addiction counselors licensed by the Department of Health and Human Services. And you don't find those people providing counseling service for addiction on a volunteer basis. That's not a viable model for working with addictions. [LB679]

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SENATOR BLOOD: And I am not say intimating that we should ask people who have gone through years of college to come and volunteer their time to do that. I just see an opportunity that's not really, I feel, been tapped into, which is the utilization of volunteers to help cut expenses. [LB679]

DAVID GEIER: Well, as a matter of fact, but just to get back to that point with you, Senator, I have encouraged the development of these Gamblers Anonymous programs ran out of Kearney, that I spoke about. We would prefer to have recovery support services provided in that fashion, wherever we can do it. The problem is that in order to get an effective peer-support program going, you have to have a certain number of people in the community or close by who are going to participate. So, we have a counselor in Chadron. There are not enough people in the Chadron area to assemble a viable Gamblers Anonymous program. Or one in Auburn, where we have a counselor working down there. There just aren't enough...you don't have the mass population in order to get it going and keep it going week after week after week, which is the only way these programs can become effective. Peer support is absolutely essential for recovery support services, no question about that. And when that's done, that's at no cost to the state or to this program. We just have not been able to get it going in these other communities besides the ones I've already talked about. [LB679]

SENATOR BLOOD: But we only serve, if I remember correctly your testimony from last time, like 200, 250 people a year? [LB679]

DAVID GEIER: Yea, it runs around 300 coming and going. You know, they cycle through. They come in and they leave. Over a year's time it's around 250 to 300 total over a year's time. [LB679]

SENATOR BLOOD: And so, what is the total budget again for this program? [LB679]

DAVID GEIER: \$1.88 million. [LB679]

SENATOR BLOOD: That's the yearly budget? [LB679]

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DAVID GEIER: Yes. [LB679]

SENATOR BLOOD: Just to serve 200 to 250 people a year? [LB679]

DAVID GEIER: Well, we're serving the entire state. We're offering the service to the people who are willing to come in and basically admit that they are addicted and they want the help. We're also serving with the education and outreach programs that we're doing as well. [LB679]

SENATOR BLOOD: But, didn't...through the ACA, didn't that allow for people's insurance to cover mental health issues such as addiction, and why are we paying for that? Don't we pay for these...do we pay for these services for them, yes? At \$100 an hour, I think is what I read. [LB679]

DAVID GEIER: Yeah, that's right. [LB679]

SENATOR BLOOD: Okay, so, I thought through the ACA that mental health was covered better than it had been previously to the ACA... [LB679]

DAVID GEIER: Affordable Care Act governs private health insurance. Private health insurance excludes coverage for persons addicted to gambling. If you have the diagnosis of addiction to gambling, it's specifically excluded by health insurance plans by Medicare, Medicaid. We are the only source of payment for this type of therapy, anywhere in the country. [LB679]

SENATOR BLOOD: So, you're telling me that there's no insurance on this planet that covers mental health issues that pertain to gambling? [LB679]

DAVID GEIER: If the primary diagnosis is addiction to gambling, that's correct. [LB679]

SENATOR BLOOD: What if it's a secondary diagnosis? [LB679]

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DAVID GEIER: If it's secondary, for example, if the person is given a primary diagnosis of major depressive disorder or anxiety disorder, they're given a primary diagnosis, so then it'll be covered, certainly, as a covered behavioral or mental health service. Yes, that's true. [LB679]

SENATOR BLOOD: So does...and I'm trying to understand this, I'm not trying to grill you. [LB679]

DAVID GEIER: No, that's...I understand. [LB679]

SENATOR BLOOD: So would you say that 100 percent of everybody that sees the counselor has that as their primary diagnosis, or that many have them as secondary diagnosis? [LB679]

DAVID GEIER: Everybody admitted into counseling in our program has a primary diagnosis of gambling disorder. That's the term under the DSM. If they don't have that primary diagnosis then our standards preclude providing the coverage. We don't provide it. I've had counselors tell me they were encouraged, for example, by a Blue Cross claims representative; just change the diagnosis. Call it some other kind of a mental health disorder, put gambling second. A little bit dishonest there. If the professional opinion is that gambling disorder is the primary diagnosis, but in order to get paid by health insurance, you have to submit a false claim. I don't encourage our people to do that. [LB679]

SENATOR BLOOD: You know, I just quickly looked up and it looks like some insurance companies actually do cover; United Health, Blue Cross Blue Shield does cover some, it says. [LB679]

DAVID GEIER: Primary diagnosis of gambling disorder? I haven't seen it in Nebraska. I've talked to the Department of Insurance about it. I've talked to...well, one of our commissioners is with Blue Cross Blue Shield in Omaha, he's an attorney at Blue Cross. [LB679]

SENATOR BLOOD: So, it says that DSM-5 has classified gambling addiction as a substance abuse disorder? [LB679]

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DAVID GEIER: No, not a substance abuse disorder. Gambling addiction is an addictive disorder, not substance related. [LB679]

SENATOR BLOOD: I'm just reading what it says here, so...that's interesting. All right, thank you. [LB679]

DAVID GEIER: No, I'd very much like to see that, Senator. [LB679]

SENATOR LARSON: Thank you, Senator Blood. Real quick, Mr. Geier; as you're talking about extra funds--and actually, Senator Wayne has brought this to light, and other things--have you guys sought after grants from organizations like the Sherwood, and I know the Supreme Court does that, and a number of other organizations...entities in state government do that. Have you guys looked into that? [LB679]

DAVID GEIER: The first one we looked at was Iowa West Foundation to see if we could get some money because they give some money for the eastern counties in Nebraska... [LB679]

SENATOR LARSON: So you have... [LB679]

DAVID GEIER: We have. But they said they don't give grants to government entities. [LB679]

SENATOR LARSON: Well, that might be them. I know, like I said, I know...I think it was Sherwood gave Supreme Court almost \$10 million, so... [LB679]

DAVID GEIER: Well, I'll get a hold of Sherwood then, (laughter) right away. [LB679]

SENATOR LARSON: ...so, that was just something that... [LB679]

DAVID GEIER: Yeah, no question about it, Senator. [LB679]

SENATOR LARSON: All right, thank you, Mr. Geier. Seeing no further questions, thank you for coming. [LB679]

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DAVID GEIER: Thank you. [LB679]

SENATOR LARSON: Any other proponents to LB679? Seeing none, opponents? Seeing none, neutral? Seeing none, Senator Krist to close. [LB679]

SENATOR KRIST: To Senator Blood, and to your question and to Senator Wayne's concern; the Sherwood Foundation Grant was...is, has, and always will be based upon subject matter that they find to be within their scope. And children and juvenile justice, because I'm very familiar with those two areas, are right down their alley. Find me somebody who wants to give to gambling addiction and I'd be happy to make that ask myself. The injustice here is that we, in 1993, said that we are going to treat addiction and we are going to put the right amount of money there. And that amount of money hasn't changed appreciably since then. So, while others were given cost of living increase or were looked after, this one was not. So, you can question the payroll, you can question the mission, you can question the methodology by which they teach and they counsel. That's independently, I think, that'd be a great thing to go back and talk to the counselors and find out where they're at. But the point I'm making today is that if we don't continue to stay...if we don't...insert Senator Riepe's analogy, if we don't continue to set up a firewall that allows for these programs to continue to be funded at a proper level, we will once again ride on the back on those who can least afford when we start balancing the budget. And with that, I will close my closure. Thank you. [LB679]

SENATOR LARSON: Thank you, Senator Krist. Do I have any questions from the committee? Seeing none, that will close the hearing and thank you for the...appearing in General Affairs. [LB679]