

Transcript Prepared by Clerk of the Legislature Transcribers Office  
General Affairs Committee February 4, 2019

**BRIESE:** We'll get going here. Welcome, everyone, to the General Affairs Committee. My name is Tom Briese, I'm the senator for District 41, which includes nine counties in central and northeast Nebraska, and I'm the Chairman of this committee. We're here today for the purposes of conducting one appointment hearing and four bill hearings. We'll be proceeding in the order on the agenda that is posted outside this room. If you wish to testify on any of the matters before us, we ask that you fill out one of these, the green sheets of paper, and hand that to our committee clerk here on the far left end. The green sheets are located on either side of the room. If you're here and you do not wish to testify but you do wish to state your support or opposition for any of the matters before us, we ask that you fill in one of the white sign-in sheets. Again, those sign-in sheets are located on either side of the room. If you do testify, we ask you begin your testimony by stating and spelling your name for the record, which is very important for our transcribers office. The order of proceedings is that the introducers will be given an opportunity to open on their bills, then we will listen to proponent testimony, followed by opponent testimony, and then neutral testimony. And the introducer will then be given an opportunity to close. We ask that you listen very carefully to try not to be repetitive. We do use the light system in the General Affairs Committee. Each testifier is afforded five minutes to testify. When the yellow light comes on, you have one minute remaining and we ask that you begin concluding your remarks; when the red light comes on, your time has expired and we will open up the committee to any questions they may have of you. At this time I'd like to encourage everyone to turn off or silence any cell phones or any electronic devices, anything that makes a noise. The General Affairs Committee is a committee that is equipped for electronics, so you may see members referencing their iPads, iPhones, or other electronic devices I can assure you if they're doing that they're simply researching the matters before us. If you have a prepared statement, an exhibit or anything you would like distributed to the committee members, we ask that you provide 12 copies to our page. If you don't have 12 copies, don't worry. Provide what you have to the page, she will make copies for you. Our page for the General Affairs Committee as Dana Mallett from Colorado. She's a sophomore political science major at the University of Nebraska-Lincoln. And I think I missed a page over there also.

**NOAH BOGER:** Noah.

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**BRIESE:** Pardon?

**NOAH BOGER:** Noah Boger.

**BRIESE:** Noah is our other page over here. With that, we'll proceed to the introduction of members starting on my far right end with Senator Blood.

**BLOOD:** Hi, I'm Senator Carol Blood and I represent District 3, which is western Bellevue and southeastern Papillion, Nebraska.

**HUNT:** I'm Megan Hunt and I represent Districts 8, which includes neighborhoods of Dundee and Benson in midtown Omaha.

**LOWE:** John Lowe: District 37, which is Kearney, Gibbon and Shelton, the southeast half of Buffalo County.

**LOGUEN BLAZEK:** Loguen Blazek, I'm the legal counsel for General Affairs.

**ALEX DeGARMO:** Alex DeGarmo, I'm the committee clerk for General Affairs.

**MOSER:** Mike Moser-- oh, sorry. Go ahead.

**BRANDT:** Tom Brandt, District 32: Jefferson, Thayer, Fillmore, Saline, and southwestern Lancaster County.

**MOSER:** Mike Moser, District 22. That's Platte County, Stanton County, and a bit of Colfax County.

**BRIESE:** Very good. I think I got us out of order there when I nodded to Alex to introduce himself. But we're missing Senator Arch and Senator Wayne. They are introducing bills in other committees. They will, presumably they will be with us here after a while. We'll begin today with a confirmation hearing for Mr. Paul Leckband to the Commission on Problem Gambling. Good afternoon, Mr. Leckband.

**PAUL LECKBAND:** Good afternoon. How are you?

**BRIESE:** Good, thank you. And welcome to our committee.

**PAUL LECKBAND:** Thank you. It's good to be here.

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**BRIESE:** Please state and spell your name for the record and proceed to tell us what, what you would like to share with us.

**PAUL LECKBAND:** My name is Paul, P-a-u-l, Leckband, L-e-c-k-b-a-n-d, and I'm here for reappointment to the gamblers assistance commission. I've served as a member of this commission since 2013. My background is in education. I was in Lutheran secondary education for 40 years, and that included 13 years here at Lincoln Lutheran here in Lincoln. And then I was principal of the Lutheran high school in Hawaii for 1993 to 1996. And then I came back to Nebraska in 1997 to help start a Lutheran high school in Norfolk. As I said before, my expertise is in education and I've been involved in secondary education from grades 7 through 12 as both a teacher and a coach and as an administrator.

**BRIESE:** OK, very good. Thank you for that. Any questions from the committee members? Senator Hunt.

**HUNT:** Thank you, Chairman Briese. Nice to meet you and thank you so much for being here today. What are some of the issues that you hope to see the problem gaming commission build upon in the next term that you have.

**PAUL LECKBAND:** As a, as a member of our commission, the Gamblers Assistance Program, what I'm most interested in seeing is that our level of funding is commensurate with the number of problem gamblers in the state. That number of problem gamblers is growing. And our primary function as a commission is to make sure we have adequate care providers involved. And so that's one of the reasons why I originally volunteered for this commission. That and some concern over what I saw some gambling issues among high school students.

**BRIESE:** Thank you, Senator Hunt. Senator Moser.

**MOSER:** How do you feel that the commission has done? Do you think their message is getting out? Do you feel like your mission is being accomplished?

**PAUL LECKBAND:** We're, we're very much of a data-driven commission and so we're very aware of what percentage of gamblers in the state develop a problem with gambling. I think our message is getting out. I'm not sure it's getting out, given our funding, at the level that we'd like to see it. Opportunities for gambling are becoming more and more frequent. And so we, we work very hard to make sure that we get our, our name and our contact numbers out so that those who have a

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problem with gambling or who have a loved one who has a problem with gambling can get the help that they need through our Web site, through our gamblers hotline.

**MOSEER:** How do you typically find people that are having a problem? What's the evidence? I mean, they get arrested or a family member contacts you or--

**PAUL LECKBAND:** Usually it's, it's either the gambler himself or herself or it's a family member. And it usually happens either because the gambler has gotten into some kind of a legal problem because of their gambling or because there's significant social issues. And we, we hear stories about gamblers who have basically spent their family's money on gambling and criminal-- created a tremendous amount of debt for their families to have to deal with.

**MOSEER:** Are there private agencies that also address problem gambling?

**PAUL LECKBAND:** Do we know-- we don't, we don't know of any private agencies that address gambling.

**MOSEER:** Well, I mean, there, I know there are organizations that are, that oppose gambling. But I was thinking more, and I think your answer is geared to what I was really trying to ask, and that is are there agencies that help people with problems, not so much just oppose gambling. Because I know there-- I've had people tell me they're opposed to gambling. I know that's--

**PAUL LECKBAND:** Right, right, right. And as a commission we're, we're mostly interested in those gamblers who have developed the problem. I'm not particularly aware of, you mean like a private counseling organizations? I'm just not familiar with those. I think that our providers are those who have gotten certification through our, our commission here in the state.

**MOSEER:** Thank you very much. Appreciate it.

**BRIESE:** Thank you, Senator Moser. Senator Blood.

**BLOOD:** Is not Gamblers Anonymous one of the organizations that we have here in addition to what you offer?

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**PAUL LECKBAND:** I'm not sure whether they provide the kind of counselling services that our counselors provide or if they're mostly a support group.

**BLOOD:** But isn't a support group such as Gamblers Anonymous, Alcoholics Anonymous-- what is the one for drugs?

**HUNT:** Narconon.

**PAUL LECKBAND:** Gambling With the Good Life.

**BLOOD:** No, that's not what I'm-- Narconon is what she's--

**PAUL LECKBAND:** Right, right.

**BLOOD:** So don't they offer 12-step programs so people can self-heal and work forward to being--

**PAUL LECKBAND:** Right. And the therapists that work under our authority there they're providing actual one-on-one therapy, or in some cases family therapy. So I think that differs from a 12-step program where you're part of a group that's, you know, getting together for mutual support but you're not necessarily receiving the kind of counseling that our counselors provide.

**BLOOD:** I know that you're not, you're not a counselor.

**PAUL LECKBAND:** I'm not.

**BLOOD:** Do you know what you think the difference would be between the two types of therapy or the type of help?

**PAUL LECKBAND:** I would say I'm probably not an expert when it comes to that.

**BLOOD:** That's fair. Thank you.

**BRIESE:** Thank you, Senator Blood. Any other questions? Well, seeing none, thank you, Mr. Leckband, for appearing before us today.

**PAUL LECKBAND:** Thank you.

**BRIESE:** And thank you for sharing that with us. We will be in touch soon.

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**PAUL LECKBAND:** Thank you very much. Appreciate it.

**MOSER:** Thank you.

**BRIESE:** Any testimony in support of Mr. Leckband's appointment? Seeing none, any in opposition? Seeing none, any neutral testimony? Seeing none, that will close the hearing on the appointment of Mr. Paul Leckband to the Commission on Problem Gambling. Thank you. And with that, we'll go to our next bill. And I happen to be the introducer there. So Vice Chair Senator Lowe will take over the hearing for this next bill.

**LOWE:** And then Senator Blood will take over because I'm going to have to leave almost immediately.

**BRIESE:** Thank you and good afternoon, Vice Chairman Lowe and members of the General Affairs Committee. I'm Tom Briese, T-o-m B-r-i-e-s-e, and I'm here to present LB203. This bill is simply an update to the definition of "proprietor" for purposes of the Music Licensing Act. In 2018, the Legislature passed LB1120. Among other provisions, the bill made modifications to the Music Licensing Agency Act. In general, the act deals with the selling and licensing of the performing rights in any musical composition. Last year's bill defined "music licensing agencies" and as an association or corporation who licenses the public performance of nondramatical musical works on behalf of the copyright owners. The bill also put in parameters about how music licensing agencies could contact the people they believed owed them royalties. To do this, the bill defined the term "proprietor." Included within the term in current law are the owners of any retail establishment, restaurant, inn, bar, tavern, sports or entertainment facilities. With this bill, LB200-- LB203, we would include the owner of a multi-family residential dwelling within the meaning of the term "proprietor." Under federal copyright law public performance of music includes any music played outside a normal circle of family and friends. Therefore, the owner of a multi-family residential dwelling, such as an apartment complex which has music playing in a gym, lobby, or pool, may fall under the category of a public performance. LB203 would simply ensure that we're providing apartment complex, apartment complexes where music may be playing in a gym, at a pool, or in a TV lounge the same consumer protections afforded bar and restaurant owners. This bill has no fiscal impact and would simply update the definition of proprietor for purposes of the Music Licensing Act, to provide consistency and clarity to the statute, and ensure multi-family residential dwellings

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are provided equal protections. I would therefore ask for your support of LB203 and its advancement to General File. Thank you.

**BLOOD:** Thank you, Senator Briese. And I assume you'll be staying for the closing?

**BRIESE:** Yes, I will.

**BLOOD:** All right, are there any questions from the committee? Senator Moser.

**MOSER:** You say you're offering protections that are in the bill, that the original legislation was to protect citizens of Nebraska or was it to make sure that the royalties were paid?

**BRIESE:** I wasn't involved in the original bill but I would suggest that it was intended to protect the proprietors in requiring various things of, of these agencies. For example, as I read some of the information we have on this: the proprietor should receive in writing a schedule of the rates 72 hours prior. The agency is to file with the state list of members and a catalog of the music that they provide. Various things like that I would suggest are probably an attempt to protect the proprietors. Yes.

**MOSER:** Yeah, thanks. I don't, I didn't bring a whole copy of the bill so.

**BRIESE:** OK, but that's my understanding of the original legislation.

**BLOOD:** Are there any other questions? Senator Hunt.

**HUNT:** Under this bill, would an apartment complex with six units have to pay the same licensing fee as an com-- complex with like 100 units?

**BRIESE:** I don't know that this would require, would require the same compensate-- or the same amount to be paid by one size versus the other. I'd have to look at the bill a little closer, or look at the original act a little closer to determine that. So I can't answer your question but.

**HUNT:** Thank you.

**BLOOD:** Any other questions? And Senator Moser, I did sit on the committee when that bill was brought forward before, and it was consumer protection because a lot of these bigger businesses were

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demanding money for services that many of the business owners felt they were not participating in. And so they felt they were being ripped off and we were trying to protect them.

**MOSER:** Thank you.

**BRIESE:** Could, could I respond to Senator Hunt's question here. As I think about that, I think with or without this bill they would probably be on equal footing there. That probably have the same exposure I would say, whether you're a six unit complex or a 106 unit complex would be my thought.

**HUNT:** Thank you.

**BLOOD:** OK, last call. Any other questions? With that, we'll move on to proponents. Are there any proponents of LB203? Please come forward. If we have anymore, if you would please come forward to the front row. Welcome.

**RYAN NORMAN:** Good afternoon, members of the journal Affairs Committee. My name's Ryan Norman, it's R-y-a-n or R-y-a-n N-o-r-m-a-n. I am an attorney in Lincoln who represents rental property owners and managers and I'm here representing the Apartment Association of Nebraska in support of LB203. The Apartment Association in Nebraska is an affiliate of the National Apartment Association. Its members consist of 57 property management companies and owners of apartment communities encompassing 326 apartment communities in Nebraska that consist of over 42,000 apartment units. The Apartment Association of Nebraska supports LB203 because it allows the protections under the Nebraska Music Licensing Agency Act for the apartment industry against predatory acts of music licensing agencies and or performing rights organizations. The Apartment Association-- or the apartment industry in Nebraska has been targeted by these agencies for several years. Many apartment communities have sound systems throughout their clubhouses, fitness rooms, and pools. Some also have multiple televisions mounted in such areas, and often these licensing agencies will search for apartment communities on Facebook or on the apartment communities' Web sites and see what kind of systems they have and then the agencies send letters or call the apartment communities demanding licensing fees while alleging that the communities are airing copyrighted material through speakers or televisions. This type of predatory behavior for music licensing agencies is the same reason that the Music Licensing Act was passed last year. LB203 would simply extend the same protections that the original act gave restaurants,



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hotels, and other retail establishments to apartment communities. Allowing apartment communities to be protected under Nebraska's Music Licensing Act will help prevent licensing agencies from acting in a predatory manner, manner and provide apartment communities with the information they need to make sure that the agencies contacting them actually own the licenses to copyrighted music and that they are legitimate companies. With that, we urge that the committee support LB203 and advance the bill to General File. Thank you for your time, and I'd be happy to answer any questions that you have.

**BLOOD:** Thank you for your testimony. Do we have any questions at this time? Yes, sir, Senator Moser.

**MOSER:** Along the lines of what Senator Hunt was asking before, do they scale their licensing fees based on the number of people who are in the audience of whatever musical event that they're trying to protect?

**RYAN NORMAN:** As far as my understanding of this act goes, I don't think that this this specific act speaks to that. You may have another testifier that's better equipped to answer that question. But to my knowledge I, I believe that it doesn't matter how big the apartment complexes in terms of the licensing fee.

**MOSER:** Thank you.

**BLOOD:** Do we have any other questions? With that, thank you for your testimony.

**RYAN NORMAN:** Thank you.

**BLOOD:** Are there any other proponents? Any other proponents? Any opponents? Welcome.

**SHAWN COLE:** Hi. Chairman Briese and members of the General Affairs Committee, my name is Shawn Cole, S-h-a-w-n C-o-l-e, I work as a full-time musician. I operate a small booking agency and I'm a published songwriter who has several songs registered with ASCAP, one of the licensing companies doing business here in Nebraska. Last year I explained to the General Affairs Committee how the music licensing companies are using the threat of stiff federal fines to trap Nebraska businesses into paying outrageous licensing fees. As an artist and a songwriter, I'm totally in favor of having intellectual property protected. However, the PROs licensing companies are intentionally grossly overcharging for their services. In many cases, they are

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charging thousands of times more than what any actual royalty rate would produce. The licensing companies sell blanket licenses to our businesses to cover, that cover a set amount of performances throughout a year. If that one blanket license covers the royalties of all the songs that will be performed within a year, our Nebraska businesses shouldn't be forced to buy more than one blanket license unless the total cost of all those licenses is equal to the original blanket coverage. There are now 96 active music licensing companies operating around the world. They're all quite legit. There's nothing stopping each of these companies from demanding that each small bar, winery, coffeehouse, brewery, and now apartment complex buys their license because they all own rights to different catalogs of songs. Last year, Senator Larson introduced the music licensing bill. He suggested to me that the licensing companies wouldn't likely jump through the newly-imposed hoops that were with last year's bill. The notion that these giant companies won't be able to do a day's work in jump through the hoops that were imposed is absurd to me. I think, I think we need more protection in this bill. The bill was highly controversial last year, most of the bill pertained to alcohol laws and it was obvious to anyone that some of the best interests that that bill was looking at were maybe protecting some corporations are not necessarily Nebraskans. Last year I explained how the PROs are running basically an extortion racket, and no one voiced any disagreement to me regarding my presentations or findings. And I'd be happy to share with you exact scenarios of how much they're charging based on what actual royalty rates would be. I think it's pretty appalling. While the music licensing bill that passed last year seem to be a step in the right direction, it ultimate, ultimately just allowed the state to start collecting payments from the licensing companies. That bill and this proposed bill don't protect our businesses. I fear that this is yet another bill that serves the interests of big businesses while jeopardizing the livelihoods of thousands of Nebraska's small businesses and entertainers like myself. I'm curious to know from whose concerns this bill originated, and I hope this bill can be amended to protect Nebraska's small businesses. Thank you for your time. I appreciate the ability to come here before the General Affairs Committee again this year. I'd be happy to answer any questions.

**BLOOD:** Thank you for your testimony. I'm actually going to start with a question because we did speak after the hearing last time. And the question that I have for you is, did you bring these concerns up with

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Senator Briese when you saw that the bill was coming forward yet again?

**SHAWN COLE:** I sent an e-mail to, yes, to him.

**BLOOD:** And did you get a response?

**SHAWN COLE:** I don't believe I received one from Senator Briese. I received one from a couple of people.

**BLOOD:** Would you be willing to work with Senator Briese's office to help us amend it to more of what perhaps, and that may not be his intent, but if indeed-- I know that was our intent last time.

**SHAWN COLE:** Yes, I'd be happy to.

**BLOOD:** Thank you. Are there any questions? Senator Brandt.

**BRANDT:** Thank you for appearing today. You said you would share with us a little bit on what the finances are in this industry. If you could give us one quick example, I would appreciate that.

**SHAWN COLE:** OK. Last year, just two weeks before the senate hearing, there was a bar that got sued. And their exact thing was three of the companies were requesting that they buy a license. Each of the licenses was right around \$3,000. So their total, you know, I broke it down per song. And the rates per song that were played in that bar that year were equal to \$10 per song that was performed. Now any artist right now, if you stream my music on Pandora and you listen to one of my songs, I'll get half a penny every time a song is played. So the notion that somebody in a bar hacking through somebody's song on a guitar can be worth so much more than that, I mean, a \$10 royalty is unheard of. You could, if we broadcast a song on primetime television tonight the royalty wouldn't be \$10. It's, it's bizarre how high their rates are. And what's tricky is they're doing-- I think they're doing this on purpose because the fine, if they tell you that you need to be paying this and you don't, and a lot of businesses don't because it's a very high licensing fee, if you don't pay it and they sue you, the fine, the federal fine is \$30,000 per song. So the bar in Shubert is being sued for six songs that were performed at their bar and now they're facing a lawsuit of \$180,000 in fines. And that's, that's the racket. And with apartment complexes, I'm-- it's shocking that they're even going after apartment complexes because those are private places where people live. That was not how performance royalty rates were

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ever designed to be handled. And so it's, it's-- and they'll be completely arbitrary. I've seen licenses that cost \$3,000, in a similar bar and the same amount of music they will settle and sell them a license for \$200. So it's quite arbitrary and unfair.

**BRANDT:** Quick follow up here. So it seems to me Senator Briese's bill is simply a carve-out on apartments. And so it almost sounds like your issue is outside of that. That that would be a better issue to bring up whole and by itself maybe in the next session.

**SHAWN COLE:** I think if you don't fix this bill, and I think the fix that would fix this bill to at least give the apartment complexes some protection, is the same fix that we would fix the music bill as it pertains to bars. You're not gonna be able to dictate what prices they charge or establish royalties, that's going to be done at the federal level. But forcing any business in Nebraska to buy multiple coverage, that is what I call blanket coverage. I mean, they say, OK, you're allowed to have music this many times in your establishment and you're completely covered. So if you paid a \$3,000 fee to be completely covered in order to have music 50 times, it would cover every song and you could play all BMI songs or whatever and that would cover all of them. The fact that you're paying enough royalties to cover all the songs that are going to be played, that business should not have to pay that fee again and again.

**BRANDT:** Thank you.

**SHAWN COLE:** You're welcome.

**BLOOD:** Senator Wayne.

**WAYNE:** So underneath your theory or idea, doesn't there have to be change at the federal level? So let's say, let's say we repeal the entire act from last year can't you, can't a bar still be sued during federal law?

**SHAWN COLE:** Yes. Yeah, and it's, the United States is rare in that it doesn't have performance royalty rates established. Us and Saudi Arabia are two of the only countries that don't have performance royalty rates established, and that's what the kind of rates that we're dealing with here. And eventually that does have to be fixed at the federal level as it pertains to small businesses like this. But

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what I think you can do is protect bar some playing, paying basically to protection from 96 different companies.

**WAYNE:** So how, though? Guess what I'm-- if it's in federal law?

**SHAWN COLE:** Quite often the federal people, the feds won't prosecute fully something if it goes against state law. And sometimes they will, and so what I'm hoping and it's just to buy some time until the Library of Congress--

**WAYNE:** But that's, that's just-- not to interrupt, but that's prosecution. But in civil law I can sue whether I'm in civil court or I'm in state court. So and it's an individual suing an individual. So it would be a company suing that bar. So, so regardless of what we were to do at the state level that doesn't stop that company from suing you for-- I don't want to call it copyright infringement, whatever-- whatever it would be. Unlicensed music. So really there's nothing we could do to stop that from happening. Essentially is what--

**SHAWN COLE:** I understand what you're saying.

**WAYNE:** It would just be a different court.

**SHAWN COLE:** I see. You know, last year's bill did a lot of things right, as far as they protected at the state level. Another again, I don't know if these companies are going to abide by anything that was in last year's law. Do they have to? But for some reason we made a law last year that came very close to protecting our businesses. Without it, I mean, it's already half the bars that I've played in that are still in business have stopped having music altogether and half of them go out of business within three to five years anyway because the small town bar business is a crappy business. But they're being hassled and they're being strong-armed into paying fees that are, in many cases, 4,000 or 5,000 times higher than what the actual royalty rate would be. So I don't have the answers. Legally, I don't know. But I urge you to figure out something that protects these businesses from being shut down or your apartment complexes are going to be charged. This, this bill could raise rent on everyone in Nebraska that pays rent because these companies don't give a-- they don't care.

**WAYNE:** Thank you.

**BLOOD:** Senator Moser.

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**MOSER:** When you say there are 96 different agencies licensing music, there isn't more than one agency that represents the same artist is there?

**SHAWN COLE:** Yes, as an artist, every time you have a--

**MOSER:** Well, I should say an author of the song, because the music really, the royalties go to the person who wrote the song anyway, correct?

**SHAWN COLE:** Well, in an ideal world. I mean, in this example clearly they have no way of knowing what songs are played, so it's impossible for them to do their due diligence to ever get that money to the right person. That's a separate matter, I suppose. But as an artist, several songwriters have music licensed with more than one company. Typically you walk in with one company, but if you collaborate and somebody wants to write songs with me, maybe they are there working with BMI so maybe my next album will be registered with BMI rather than ASCAP.

**MOSER:** So you might need a license from all or a number of those licensing organizations in order to have music in your bar?

**SHAWN COLE:** Definitely.

**MOSER:** And then is the-- or are the, anyhow, to get the verb and the subject to agree-- in, in jukebox usage is the royalty paid through the purchase of the music that goes in the jukebox?

**SHAWN COLE:** There is a fourth company now that handles jukebox licensing. I typically don't see the old jukeboxes anymore that are sliding on a record. It's all digital, and so there's a fourth licensing company. Typically, to my knowledge, there's four licensing companies collecting money from Nebraska bars and businesses. Got ASCAP; BMI, which is the largest; SESAC; and then, I forget if it's, I forget the name of the one that handles digital distribution. That one is much more fair because they could see which songs are played and hopefully that money will get to where it's supposed to go.

**MOSER:** Thank you. I may have been asking you questions that are not, you're not an expert to answer. But I appreciate your input.

**BLOOD:** Any other questions? I see none, but I do have a question for you before you leave. We have a lot of people new to this committee that have never served on this committee, but I very vividly remember the hearing. Do you remember one of the concerns being also that they

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were being harassed on the phone by companies and bullied into paying fees that they felt they didn't owe?

**SHAWN COLE:** Yes.

**BLOOD:** Can you?

**SHAWN COLE:** Yeah, I mean, and I don't know if it's improved yet. You know, the thing is, you know, last year that bill with the breweries and stuff, they're connected and they have lawyers and they--

**BLOOD:** It was connected to the craft brewing.

**SHAWN COLE:** But these small bars, I mean, they're not politically engaged, they're not bound together, they're not communicating. And so they get these companies that have been harassing them on the phone. The new law definitely will help that. I, I don't know how much they're abiding by those laws yet. I don't know what impact the new laws have.

**BLOOD:** Thank you very much.

**SHAWN COLE:** You're welcome.

**BLOOD:** And thank you for your testimony. Do we have any other opponents? Any other opponents? With that, I ask Senator Brieese-- oh, excuse me. Do we have anybody coming in from the neutral? Sorry about that. Welcome.

**NICK PADEN:** Good afternoon, thank you. Good afternoon, Senator Blood and members of the General Affairs Committee. My name is Nick Paden, spelled N-i-c-k P-a-d-e-n, I'm appearing today as a registered lobbyist on behalf of the American Society of Composers, Authors and Publishers, also known as ASCAP. With me today is ASCAP senior vice president for licensing John Johnson. We're here today to express our interests with LB203 in the neutral capacity. As we read and understand the legislation, the words "multi-family residential dwelling" are added to the definition of "proprietor" as it relates to the Music Licensing Agency Act. We want to state for the record that we have no issue with this request brought by, and I'm sorry I had to strike-- I was told a different organization earlier-- the Apartment Association. And hopefully I got that correct. As a little background about ASCAP the organization, we're, as you've heard earlier, one of four major performing, performing rights licensing companies in the United States. The others being BMI, or Broadcast Music, Inc; SESAC;

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and global, Global Music Rights. ASCAP represents over 700,000 members and has hundreds of thousands of licensees. We license over 11.5 million songs and other musical compositions to businesses that play music publicly. In return, the licenses-- the licensees pay fees that ASCAP distributes to its members as royalties after deducting only operating expenses. ASCAP has filed its initial compliance under the statute that was enacted last year, including registration with the Department of Revenue. Finally, ASCAP is a Nebraska taxpayer in good standing, filing and paying a gross receipts tax every year as required by Section 59-1403 of statute. So as I mentioned, we have a representative here today from ASCAP. I could attempt to answer some of your questions but Mr. Johnson is also here to volunteer to answer any that you might have.

**BLOOD:** Thank you for your testimony. Do we have any questions from the committee? I see none. Oh, we do have one. Senator Moser.

**MOSER:** Well, if we could ask the representative from ASCAP or do we ask Mr. Paden.

**BLOOD:** Yes, and as soon as his testimony is done, he'll come up and give his testimony. He has a green sheet in his hand.

**MOSER:** Thank you.

**BLOOD:** I'll take care of it, thank you.

**MOSER:** Thank you.

**BLOOD:** With that, thank you very much your testimony.

**NICK PADEN:** Thank you.

**BLOOD:** Next neutral testimony.

**JOHN JOHNSON:** Good afternoon. As, as Nick had mentioned, I'm here to answer questions. My name is John Johnson, I'm senior vice president of licensing. It's John, J-o-h-n, J-o-h-n-s-o-n. And I'll entertain any questions that you have.

**BLOOD:** OK, Senator Moser.

**MOSER:** Well, I'm curious how the licensing organizations arrive at the fees they charge because it does appear that the fees are not necessarily in proportion to the benefit of the bar owner to play



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music in his facility. Just as a kind of an item of full disclosure, I sell musical instruments and PA systems to bars and people like the gentleman who testified before, although I don't believe I've ever sold him anything. But I'll have to work on that privately. But it does appear that the fees are far beyond the economic benefit to the organization, the institution that's-- the business that's using the music. And, you know, I've heard examples of people being sued for, you know, punitive amounts far beyond even what the licensing fees would have been. So I'm just curious what, how, how you arrive at those sums and, you know, how do we as business owners succeed in this environment? How do we negotiate a rate that reflects the amount of income we're going to get from using your licensed music products?

**JOHN JOHNSON:** I can speak on behalf of ASCAP, and I can tell you that ASCAP operates under a federal consent decree of the Department of Justice. And all the rates that we charge for our customers are subject to that consent decree. So we are charged in that consent decree to treat similar businesses the same. So if there is a bar on one corner that hasn't-- has similar characteristics of a bar across the street, using the same type of music and same frequency of music, same occupancy, they're going to pay the same fee. So we use parameters that assess those fees and then we compare those parameters and use the same rate schedule across the board. One of the things that was specified in the Nebraska state law last year, and we're in full compliance with that is, is filing with the state copies of all of our license agreements, copies of all of our rate schedules that we charge to businesses. And so the business will see what their rate parameters are and how they're being assessed a both. ASCAP, and I'll speak a little bit more broadly now to, to performing rights licensing fee structures, and that is, is that both ASCAP and BMI, the two of the very largest performing rights organizations in this country, covering the vast majority of music in this country, both operate under consent decrees from the Department of Justice for antitrust. And our, both of us, will have those same types of operating parameters where our rate schedules are under the jurisdiction of the DOJ. The other organization that I'm aware of is SESAC. They are private, for-profit corporation and they do not operate under a consent decree of a federal judge, federal government. I do not have firsthand knowledge as to how they assess their fees or how they go about, so that's it. The fourth organization is a new organization that was just created a few years ago under the, under Irving Azoff as

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the head of that organization. And they are a private organization as well. So hopefully that helps answer that question.

**MOSER:** In your opinion, does the state have the authority to interfere between ASCAP and a business owner in the discussion of the amount of a fee for operating?

**JOHN JOHNSON:** It's all federal copyright law under Title 17.

**MOSER:** Thank you.

**BLOOD:** All right, any other questions? All right, thank you so much for your testimony. Are there anybody else that would like a neutral testimony? Any other natural, neutral testifiers? With that, I'd invite Senator Briese back up to close.

**BRIESE:** Thank you, Senator Blood. Interesting discussion here. But from my standpoint this was essentially a cleanup bill. We left something out of the act last year and wasn't really intending to relitigate the licensing act with this bill. But I can sympathize with some of Mr. Cole's concerns, and I am certainly willing to work with him if there's anything we can do about it. But that's going to be the question, I'm not sure there is a whole lot we can do. But we'll, we'll sure, certainly talk about it, and I've invited him to stop by our office and visit about it and see what could be done. But shortcomings in the act really shouldn't take away from the utility of this bill. And so I think regardless of what we do, we need to pass this legislation. Whether we try to amend something on it or not, I'm not sure if that's advisable or workable. So thank you.

**BLOOD:** Any questions? With that, we have no letters for the record and we close the hearing on LB203. Thank you, Senator Briese.

**BRIESE:** And with, and with that, we will open up the hearing on LB41, Senator Hilkemann.

**HILKEMANN:** Good afternoon, Senator Briese and members of the committee. I'm Robert Hilkemann, R-o-b-e-r-t H-i-l-k-e-m-a-n-n, and I represent Legislative District 4. I am here today to introduce LB41 on behalf of the Nebraska Com-- Commission on Problem Gambling. This independent commission oversees the operation of a Gamblers Assistance Program. It is required by law to perform a range of duties and be a source of information about gambling and addiction to gambling in Nebraska from an objective, fact-based viewpoint. LB41 would adopt a

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formula that would resolve a discrepancy between the program's revenue and its appropriations. The formula is modeled after the formula used to divide profits from the state lottery. It would transfer the first \$500,000 plus 1 percent of the remainder of the charitable gaming tax to the compulsive gamblers assistance fund. The Legislature created the commission in 2013 with the intent of reforming the program. Prior to that, the Gamblers Assistance Program had been in decline with counselors dropping out and no new counselors coming in, leaving the number of Nebraskans in need of, of, with less access to care. Additionally, there was a large geographical area of Nebraska with no counselor residing within a reasonable travel distance. The lack of sufficient providers and access to the care left unspent revenue building up in the compulsive gamblers assistance fund. So starting in July 1 of 2013, the Legislature encouraged the commission to use up the unspent funds that were sitting in the bank doing no good for Nebraska. The commission has done exactly what it was directed to do. A new training program for counselors offered on-line by Bellevue University was established bringing new people into the field of counseling Nebraskans addicted to gambling. It recruited and trained new counselors leading to the opening of services in Grand Island, Kearney, North Platte, McCook, Broken Bow, and Scottsbluff. New services were also added in Omaha and Lincoln. It has developed and distributed materials about gambling and gambling addiction, including the workplace toolkit designed to inform businesses and employers, funded production of a Nebraska Public Television presentation about gambling among the elderly, it developed a digital media campaign to inform Nebraskans about ways to stay out of trouble when gambling, and developed the data collection process to inform Nebraskans and the Legislature about new and evolving trends in the gambling and addiction to gambling. At the same time, the commission has sought ways to economize. These ways have included attendance at national conferences and memberships in national organization has been eliminated. The helpline service has been transferred to a new vendor, cutting costs by 75 percent with enhanced services. It includes Internet chat with trained staff. Longstanding commitments to support an important regional conference on addictions and production of continuing education training for counselors have been sharply curtailed. Even with these efforts to economize, demands for the program's services are used up the savings account that the commission inherited in 2013. Now, without added revenue the program will face cuts of approximately 20 percent. Most of this reduction will be achieved through cutbacks in counseling that the commission is required by law to provide to Nebraskans and their families dealing

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with addiction to gambling. Other functions required by law will also have to be reduced or eliminated. It is easy to get caught up in the numbers, but as we move the conversation on this issue ahead I hope we will keep in mind this is all about people. Those who find themselves caught in situations that have gone too far and then need help. When one of our fellow Nebraskans summons the courage to ask for help and calls the helpline, I want to be sure there is someone there to answer that need. I want to make sure the person answering is properly trained to ask the right questions, especially when they screen for suicide, which is part of every call. This truly can be a life or death situation. If that is my loved one on the other end of the phone, I want to make sure that he or she has access to help that day and for better days to come. Most people who participate in Nebraska charitable gaming, gambling are also do so without any problems. But there are also going to be those who fall into the addiction. For our state to benefit financially from these games, and we do to the tune of millions in tax revenue every year, we need to honor the social contract that we put in place almost 27 years ago to ensure access to help when someone's in need. With the added revenue from LB41 the Nebraska Gamblers Assistance Program will be able to continue performing its duties. The program will be able to expand into communities that are not yet served by a resident counselor, such as Fremont, South Sioux City, and Dakota City, Columbus, and Beatrice. And the program will be able to develop a hope for financial literacy curriculum focusing on gambling and aimed at the youth in Nebraska with the goal of heading off future gambling addiction problems. LB41 would only effect the vision of the existing, of the existing charitable gaming tax. It would not mean an increase in the tax rate nor would it take any money from the local programs that use charitable gaming profits for good purposes. Last year, almost \$289 million was wagered by people playing these games and the tax brought in \$5.8 million. LB41 would divide that stream of money, sending over \$3 million to the General Fund, over \$2 million to the operations division of the Department of Revenue, and \$553,000 to compulsive gamblers assistance. It would preserve the Legislature's authority to transfer a surplus in operating funds to the General Fund as it has done in the past. The increase of approximately \$450,000 to gamblers, gamblers assistance will enable the Commission on Problem Gambling to continue its work, offer services statewide, and avoid a 20 percent cutback. Thank you very much for your time. I'll be happy to attempt to answer any questions. We have David Gallagher from the commission

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is going to be here. He's probably a whole lot better in answering these questions than I am, but I will take some questions.

**BLOOD:** Thank you, Senator. Does the committee have any questions? I see no questions at this time. Will you stay for your closing?

**HILKEMANN:** I will.

**BLOOD:** All right, so at this time we'll open it up to any proponents. Do we have any proponents on LB41? And welcome to the General Affairs Committee.

**DAVID GEIER:** Thank you, Senator Blood. And thank you, members of the committee. Thank you, Senator Hilkemann for introducing LB41. My name is David, D-a-v-i-d, Geier, G-e-i-e-r, and I am the director of the Nebraska Gamblers Assistance Program. The program is supervised by the Commission on Problem Gambling. You heard one of the commissioners speak today for confirmation and one spoke a week ago for confirmation to this commission. The commission was created in 2013 to perform a specialized function, and that's deal with addiction to gambling. That same year, 2013, the American Psychiatric Association classified addiction to gambling as a disorder with equal severity to addictions to drugs and alcohol. That's the first time that addiction to gambling was labeled at that level of severity and importance. Attaching that classification to this disorder makes a difference to the methods of treatment and services that are provided. Treatment for gambling addiction is provided by trained counselors. The American Society of Addiction Medicine, which is a psychiatric group, psychiatrists in the United States specializing in treatment of all forms of addiction, that society recommends that counseling services provided to address addiction to gambling should be given by trained counselors with specific training in addiction to gambling. In other words, it is not the same as addiction to alcohol or addiction to drugs, it's a separate and unique phenomenon that requires specialized training and particular methods of treatment. That's what we do. We train counselors specifically on the topic of gambling and gambling addiction. This is a brand new subject matter to a lot of people who went through a master's program in psychology, never heard a word about gambling. They learned about it from us. They use that knowledge then to counsel people one on one in their clinics, in their offices to address this addictive behavior. We know that there are people who can deal with addictions without getting formal counseling but there is a significant number of people who need help. That's what we do. Addictions to alcohol, addictions to drugs are cared for with public

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funds through a variety of agencies in Nebraska. The behavioral health regions, for example, around the state, offer formal counseling services to help with those addictions. The Department of Corrections works with a lot of addictions in the correctional services entities because addictions, again, are a big part of what gets people into trouble, lands them in prison. A lot of public funds are devoted to dealing with addictions. This little program is the only one that deals with the addictions to gambling. Now you have in front of you my documents, your head will be spinning with the numbers. The first page of what you have outlines for you the budget situation that the program faces. The revenue right now, \$1.57 million, comes almost entirely from gambling. There's a \$250,000 appropriation that's been renewed annually for several years: Healthcare Cash Fund, that's tobacco settlement money. The rest of it is gambling dollars. No sales tax, no income tax, no property tax, just gamblers. Now, this year the Governor proposed that our budget should be \$1.94 million, that's the proposed appropriation in the Governor's budget message. That exceeds our revenue by \$370,000. You can work your way down through the first page and see how the arithmetic works out. The fact is that with revenue as it is without LB41, this program cannot meet the appropriation that the Governor has proposed and needs to do something to help out. We have basically used up that residual bank account that we inherited from HHS in 2013 because we've been doing what the Legislature wanted us to do. That is get out in the countryside, develop this program, promote it, and get people working in this field. We're now to the point that we can no longer rely on that fund. It's, it's not all drawn out. However, we have to have enough to get through that first quarter. This is a problem with gambling dollars that doesn't exist in General Fund agencies. Gambling dollars are sent over to the Gamblers Assistance Fund only quarterly. That means the bills we have to pay in July, August, and September we won't have the money to pay them because we don't get the money until October. My time is up. I hope you can find the time to work your way through the rest of my displays here, and your head will be swimming with the numbers. The bottom line thing is questions and answers, we try to anticipate the questions you may have. Now, that's all I have to say and I'm open to questions.

**BLOOD:** Thank you. At this time does our committee have any questions?

**MOSER:** Yes, Senator Moser. Well, with the additional money you spent, can you see any result from it?

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**DAVID GEIER:** We're seeing about 200 and-- about 200 new enrollments in long-term counseling. That's about twice what it was in 2013. We're also seeing about 200 a year, 250 a year in what we call crisis intervention. I call it, it's the equivalent of an emergency room visit or you might call it a, an urgent care visit. So we've, we have almost quadrupled the number of people who are coming in and receiving counselling from us. We've also got a prevention program. Maybe we're preventing enough addiction that we don't have to deal with more people. But the fact is we're getting out. We have more than doubled the number of counselors who provide this service. We've provided training to about 25 more counselors who are just working their way through the process of learning how to, I mean, it's almost like an apprenticeship, like a-- comparable possibly, you know, to, to a specialized training like a residency program that people have to go through. So we're expanding the number of counselors, serving new communities, serving more people.

**MOSER:** Is the problem getting better or worse in your estimation?

**DAVID GEIER:** It is really hard to tell. What we do know is that there is more and more gambling. It's predictable that with more gambling there will be more problems. Gambling is sprouting everywhere, and I'm sure that people that watched the game yesterday were also taking a look at the point spread and the odds and everything else. It's all around us and it's, it's expanding. There may well be casinos in Nebraska if that petition drive comes through. That's just on the horizon. We know that there's a lot of pressure and a lot of publicity about it.

**MOSER:** Well, let's, let's go back to another question here before we let you testify too much longer there.

**DAVID GEIER:** OK.

**MOSER:** But do you try to address certain types of gambling? Are certain types of gambling more problematic than others?

**DAVID GEIER:** Well, what's more problematic is the electronic game machines. That's the slot machine in the casino, that's the electronic-- the computer-driven game that allows somebody to push the button faster and faster and faster and lose money faster and faster. They're the worst of all. They lead to the most addictive trouble that we encounter. Of course they're in Council Bluffs. Those people come back to Nebraska, we deal with the problem, the money stays over

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there. But that's the worst. However, that smartphone is turning into an electronic gaming device, turning into a gambling device. So it's, it's pervasive. But those things are the worst.

**MOSER:** Thank you very much. Appreciate it.

**BLOOD:** Do we have any other questions from the committee? Yes, Senator Brandt.

**BRANDT:** Thank you, Chairman Blood. Mr. Geier, thank you for testifying today. And just real quick question on, on what you just hit on. Do the states of South Dakota, Iowa, and Kansas send us any money since how they're getting most of the money anyway, on the border bleed? Because if you-- I live close to Kansas and I can tell you there's buses all the time going down to those casinos or going over across the river. And I would think they'd want to keep us happy to keep us from building casinos.

**DAVID GEIER:** Well, I don't see that the legislature of Kansas or Iowa is offering they're giving enough money to the state of Nebraska. Kansas owns four casinos. They are state owned and operated for-profit of the state of Kansas. There are 23 casinos in Iowa. Back in the early days of this program, which was established by the Legislature in 1993, the director then went over to the casinos in Iowa and said, hey, how about some money for Nebraska? They said, no thanks. They're just not going to do it.

**BRANDT:** Thank you.

**BLOOD:** Any other questions? I actually do have two questions for you. You had talked at the beginning about how it's a specialized field for counseling. But isn't it true that 20, up to 20 percent of these people that gamble they have a common denominator such as alcohol or drugs or--

**DAVID GEIER:** Yeah there's a lot of--

**BLOOD:** --sex addiction?

**DAVID GEIER:** --co-occurring, co-occurring disorders. That's true. In fact, sometimes it's hard to tell whether the gambling causes the other addiction or vice versa. But it's true.



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**BLOOD:** And while insurance companies rarely cover gambling addictions, they do cover sex addiction, alcohol, drugs, is that correct?

**DAVID GEIER:** Yes. And if a, if a counselor codes a bill as a, say, a major depressive episode or alcohol addiction and they seek payment, even though gambling may be involved they can get paid because they gave it a different, a different label.

**BLOOD:** Right, they're likely to get paid through insurance if they have personal insurance. And that was one of the questions I, I'm going to hate-- I'm not trying to interrupt you but I want to--

**DAVID GEIER:** No, it's OK.

**BLOOD:** --finish the thought here. So we talked about this when you were here before us last time. So one of the concerns that I have is that are we've being very clear that these people have no other insurance that will help them get counseling on their own and then they're not just being dependent on this program? That was one of the concerns I had last time as well.

**DAVID GEIER:** That was an important concern last time, and I, and I'd like to tell you what we did about that afterwards too, because you brought it up, and I'm going to tell you that that was, that was news. But it's starting to develop around the country that there's a lot of pressure about this topic. So I went to Martin Swanson, who's an attorney at the State Department of Insurance. He handles healthcare policy. And I said, Martin, tell me what do the Nebraska insurance companies do with regard to paying for counseling services for gambling addiction. He said, of the four major carriers, Aetna and UnitedHealth will not cover it, OK? Medica will, but I talked to a Medica insured person and he said, well yeah, if you pay for the extra coverage writer. If you don't pay for it, no coverage. And the fourth one is Blue Cross. We managed to get one claim paid after some finagling with one of our commissioners who happens to be a lawyer at Blue Cross. He had to call the claims person and say, no, you have to pay this claim. So in order to get it paid we had to jump through a lot of hoops. We found out that we may be able to find that now a very small number but excuse me of the people coming in are covered by health insurance. If we can get health insurers to pay for it, we'd love to do it. But so far it's, it's been a tough, tough thing to do. And, I mean, even my own health plan, UnitedHealth, state employee health plan, nope, will not cover it.

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**BLOOD:** And I understand the gambling part. But I'm saying that if they have other issues that that part is covered and that frequently the type of counseling goes hand in hand because their--

**DAVID GEIER:** Yeah.

**BLOOD:** And the concern I have, do you know what percentage of people you're getting that are covered by health insurance? We're not talking about-- just health insurance in general. So if they were dealing with depression or they were bipolar and had a gambling issue, we both know that if they coded it for being bipolar the counseling would be paid, correct?

**DAVID GEIER:** I assume so. Many, the people that I work with are all gambling.

**BLOOD:** And I do you hear you saying about the gambling but--

**DAVID GEIER:** Yeah, yeah. I'm sorry, go ahead.

**BLOOD:** So do you know what percentage of the people coming to you have health insurance?

**DAVID GEIER:** It's substantial. You know, I don't have the figure at my fingertips but it's probably more than about 30 percent of the, of the individuals. I don't have that number. But it's, it's quite a--

**BLOOD:** That's fair.

**DAVID GEIER:** Yeah, and what I don't know is how many actually would, would be able to get paid. But yeah.

**BLOOD:** And then the other question that I go back again to when you were here before, because we have a lot of new people on this committee, we had talked about peer counseling and you said that you would look into that. Have you made any progress when it comes to peer counseling?

**DAVID GEIER:** We have. Actually what we've done, we have a pretty active counselor in North Platte. He has set up what he calls G12. It's the, there are two gambler programs gambling on in G12, and he's set them up in North Platte in Kearney. So he's getting them going. The problem with it is having enough of a population base to get people to actually attend a meeting. Now we, there aren't enough in, in Chadron, for example, to even make it, make it happen. We can't do

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it. But, but we want to do that now. Peer support is, is really important to help people in recovery. That is, once you've made some progress in your counseling you get that cure-- peer support. AA, Al-Anon, all the 12 step programs are really, really helpful. We understand that, we want to promote that. There is already a Gamblers Anonymous in Omaha and one in Lincoln. We try to promote that. But we still have to deal with the acute care problem of somebody who is in the depth of addiction at the moment. And that's what our counselors do. And that's just really-- 40 states have publicly-funded programs like this one.

**BLOOD:** Any other questions from the committee? Thank you very much for your testimony, and I will see--

**DAVID GEIER:** Thank you, Senator. Thank you.

**BLOOD:** --see if there any other proponents that would like come forward. Welcome to General Affairs.

**JEFFREY BOMBERGER:** Thank you. My name is Jeff Bomberger, Jeffrey Bomberger, J-e-f-f-r-e-y B-o-m-b-e-r-g-e-r. I'm testifying as both a newly appointed commissioner to the program, I was before the committee last week and awaiting confirmation, confirmation, but mostly I'm testifying as also a consumer of gambling services. I have been a consumer of gambling services as a compulsive gambler since 2015. What I think is very important about this bill or what I've seen in the commission is that the gambling services are paid for by gambling dollars, and I think that's a very unique aspect of the program and how it's channeled to help on the society impact. I have seen in my short time being on the commission that the demand is outpacing the supply. The funds are being drawn down from, from assets that just are no longer going to be there. What I am here to testify mostly is to say two things that in my crisis in 2015, at my very lowest I would not have been able to afford any counselling services. I will explain that a little bit more. But of my own accord, I had no insurance, I had no job. Secondly, I would also like to explain as an example of myself that my trajectory in my success has been very favorable over the past three years, and it would not have been possible without counseling services, especially on an individual basis. Just my background, I started to gamble a little bit when I was age 10, sports gambling mostly through my father. My most recent stints lasted from about 2002 to 2015. In the periods right before then I lost my marriage, I lost my job, my reputation, lots of friends and family, lots of trust and relationships. I ultimately gambled away

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my 401K and then in 2015 I stole from my employer, and I am serving a current term of probation for that. I have been in a crisis center five times for suicidal ideation, depression. And I went into the program, into the Choices Program, although I have seen other counselors in 2015. Again, at that time, I was unemployed. I did not have insurance, I did not have a lot of relationships that trusted me any longer. I was a newly-convicted felon. Again, reputation was lost and I had moved into my parents' house. I had no means to pay for services. I had tried services before in the private sector and my co-pays were generally about \$50 a session, so about \$200 a month if I had had any insurance and had to use the idea of co-pays. My experience, I have worked in banking and economic development for 18 years, 2 years as an operations director. I've taught classes at Bellevue University and I have a master's degree in finance. But since being in counseling over the last three years, I worked my way from the only job I could get which was about 20, 20 hours a week stocking groceries overnight at 50 cents above minimum wage. I had child support at the time of \$677 a month for my daughter. I then got a job through my psychiatrist as a referral as a garbage man for three months that paid \$12.50 an hour. This was somewhat of the lowest point in my life but I was rebuilding and there was a growing confidence in myself that there was a trajectory that was starting to build, even a \$12.50 an hour. Finally, I got a job in the delivery service. I deliver milk to schools in Bellevue and Council Bluffs. As of tomorrow, I will be there one year for that. That is the longest sustainable one-year anything other than counseling that I've done since 2015. So it's starting to feel much, much better. I've turned in thousands of job applications. I've been gambling sober since June 2016. I'm current on my child support and have a wonderful relationship with my daughter. I guess what I would what I would say in conclusion anyway is that this, again, it has a unique advantage to be paid for by gambling dollars. Gamblers Anonymous has not been the resource for me because it's very limited. There is one Gamblers Anonymous group in Lincoln, they meet on Saturdays at 2:00. And there's about three or four in Omaha, most of them meet at 7:00. I cannot make those because I need to go to bed by 5:00 for my delivery job. Gamblers Anonymous is a good resource, I think, for sustainability and a lot of the people that I've met in GA have been sober for three years plus. But in the immediate sense, in a crisis sense, individual counseling I think is the most important thing that we can find. I guess I just urge the committee to look at this

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proposal, look at the finances, and the traject-- trajectory and to consider my example.

**BLOOD:** Thank you. Thank you for sharing your story. Do we have any questions from the committee? All right, Senator Hunt.

**HUNT:** Thank you, Senator Blood. I don't have a question. I just wanted to make sure we were on the record thanking you for sharing your testimony and your story, and also thanking you for your service on the Nebraska Commission on Problem Gambling.

**JEFFREY BOMBERGER:** Thank you.

**HUNT:** I just found that very encouraging to hear and I think you have a lot to be proud of. So thank you.

**JEFFREY BOMBERGER:** Thank you.

**BLOOD:** Do we have any questions? All right, thank you so much for sharing your testimony. Do we have any other proponents? Any other proponents? Do we have any opponents? Any opponents? Anybody testifying in the neutral? All right, I would invite Senator Hilkemann to come back and close on LB41.

**HILKEMANN:** Thank you very much for hearing testimony on this bill. I think that the question, is this effective? Well, I'm grateful that Jeff was here to share his story. And we have people, we have state-run gambling in this state and we get revenue from that. We've made a commitment to help people who gambling becomes a problem for them. And I think that we need to continue that program, that's what this bill is all about. And I hope that you'll take that, we're not making any judgments about the gambling and whether it should be expanded or whatever. We've made a commitment to our people, let's keep that commitment.

**BLOOD:** Thank you, Senator. Do we have any questions? We do have a letter of support: Mark Canada, Chair of the Commission on Problem Gambling. And with that, we'll close the hearing on LB41. Thank you, Senator.

**HILKEMANN:** Thank you, Senator Blood.

**BLOOD:** I'm going to hand the meeting back over to Vice Chair Lowe.

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**LOWE:** Thank you for taking over for me. Go ahead.

**CRAWFORD:** OK. Good afternoon, Vice Chair Lowe and members of the General Affairs Committee. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. I'm honored to be here today to introduce LB235 for your consideration. Home-brewing has a strong presence in our state. There are approximately 11,500 Nebraskans who home-brew as a hobby. These home-brewers are part of a tight-knit community who make up the 25 home-brew clubs across our state. And until 2016 they were present at some of our beer festivals, including the Great Nebraska Beer Fest held in Werner Park in my home county of Sarpy County. That year, 2016, after someone filed a complaint, the state Liquor Control Commission interpreted the current statute to mean that unlicensed home-brewers could not make and furnish alcoholic beverages except to family and guests, causing home-brewers to lose out on participating in these beer festivals. This bill seeks to remedy that situation to allow home-brewers to participate in these kinds of festivals and fundraising under strict guidelines. LB235 but permit the serving of clearly marked alcoholic liquors made under 53-168.07-- .06, excuse me-- to be served at festivals, competitions, exhibitions, or tastings where all laws relating to the serving of alcohol, alcohol liquor are followed so long as none of the alcohol is offered for sale. The language in LB235 requires home-brewed alcohol liquor at these events to be clearly identified as alcoholic liquor that was manufactured under an exception to the rules and regulations of the Liquor Commission by signage, and the location of the manufacturer shall be available upon request. Allowing home-brewers to appear at festivals and competitions can be beneficial to our state in a few ways. First and foremost, it provides an entrepreneurial platform for those who are interested in eventually turning their home-brewing hobby into a small business. Not only do these events provide an opportunity to receive feedback on recipes, as well as gain credibility and exposure, they also provide an avenue for Nebraska home-brewers to compete on the national stage. Since winning a local or statewide competition is a requirement to compete in some home-brew competitions at the national level, providing an opportunity to allow home-brew entries in Nebraska beer festivals creates a pathway for Nebraska to be represented at national home-brew events. For example, the Great American Beer Festival Pro-Am Competition and the Masters Championship of Amateur Brewing both require qualifications by winning a local competition. LB235 would allow Nebraska communities to host competitions like these and also

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allow Nebraskans to compete. Twenty-eight other states explicitly allow for home-brew to be served at competitions and events. Some of our surrounding states, including Missouri and Minnesota, have similar language to that proposed in LB235, allowing home-brew at organized exhibitions or competitions such as home-brewer contests, tastings, or judgings. Considering 90 percent of professional brewers began as home-brewers, such as Samuel Adams and New Belgium, and as well as successful local brewers, such as the Nebraska Brewing Company and Farnham House Brewing Company, allowing home-brewers to fine-tune their brews at competitions could give them the skills and connections they need to eventually start their own business here in the state. Home-brewers also stimulate the economy. Nationwide, the hobby of home-brewery has created 11,000 jobs and has generated \$1 billion in spending. This includes spending in our state's economy. In fact, 95 percent of home-brewers shop in an average of two local home-brew stores 8 or 9 times a year. This spending helps Nebraska home-brew supply companies continue to be successful, as well as the success and economic impact of the home-brew festivals and having home-brewers participate in our beer festivals across the state. The bill also clarifies language in Section 53. Current Nebraska law Section 53-168.06 allows the making of wine, cedar-- cider, or other alcoholic liquor by a person from fruits, vegetables, or grains, or the product thereof by simple fermentation and without distillation if made solely for the use of the maker and his or her family and guests. LB235 clarifies that beer, mead, perry, and products made with honey may also be made by individuals under the standards set out in this statute. Although the current statute provides permissive language for quote other alcoholic liquor end quote, LB235 simply clarifies the legality of brewing these specific alcoholic drinks. LB235 also clarifies this other section, this other section of statute. Overall, LB235 provides clarification in existing home-brew statute on the making of beer, mead, perry, and products made with honey; and it also allows the thousands of home-brewers across our state to participate in festivals and other events in a regulated manner in order to fine-tune their skills and compete to represent our state in, at the national level. Following my testimony you will hear from home-brewers and individuals who can answer questions about the safety of home-brew liquors. I appreciate the committee's attention to this issue and I'm happy to try to answer any of the questions that you have.

**LOWE:** Thank you, Senator Crawford. Senator Blood.

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**BLOOD:** Thank you, Senator Lowe. And thank you for bringing this bill forward, Senator Crawford. I'm a fan. And so I always say that craft brewing is a pristine example of entrepreneurship because the people that do this are literally doing it in their basements and their driveways. And almost every craft brewer I've spoken with started this way.

**CRAWFORD:** As a home-brewer.

**BLOOD:** Yes, as a home-brewer. So the question that I have for you is that can you think of any other area where people are allowed to make things at home and then put out a sign that says it's made in their home and allowed to sell it in a public venue?

**CRAWFORD:** Absolutely, that's a very good analogy. That is allowed in our farmers markets. People are allowed to make goods, foods, and products at home and then sell it in public. And they're allowed to then with, as long as we have a sign that indicates that it's been produced in an unexpected kitchen. Now, I want to indicate that this has even more protections because this is not selling the alcohol.

**BLOOD:** Right.

**CRAWFORD:** This is just being able to allow the tastings and competition. So that we're, so the bill specifically forbids people from selling this home-brew alcohol. But in the case of the farmers' market, people are allowed to make and sell those kinds of goods that aren't, that aren't made in inspected kitchens.

**BLOOD:** And then those are laws that are created by the Department of Ag and monitored by the Health Department.

**CRAWFORD:** Correct, correct.

**BLOOD:** Is that correct? All right. And so this again takes it a step further, if I heard you correctly. Not only will they not be selling it but they're sharing it, and then it allows them to have healthy competitions that also can help them possibly move forward should they ever want to go into business for themselves.

**CRAWFORD:** Absolutely, thank you.

**BLOOD:** All right, thank you, Senator Crawford.



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**LOWE:** Any other questions? I have one. You touched on this, I believe. You said communities could host competitions. Could the state of Nebraska now host a national competition for home-brewers with, with the passage of this bill?

**CRAWFORD:** I would assume so. I would assume that we would then be able to host a national competition and allow home-brewers to participate in that national competition should we pass this bill.

**LOWE:** Thank you. Oh.

**CRAWFORD:** Thank you.

**LOWE:** Thank you very much.

**CRAWFORD:** I have another bill, so I'm-- another question?

**LOWE:** No. I'll turn it back over to Chairman Briese.

**CRAWFORD:** OK. So I'm afraid I won't be here to close.

**BRIESE:** Very good, thank you. Thank you, Senator Lowe and Senator Blood, earlier, for taking care of things. Next proponent. Welcome. Please state and spell your name.

**MATTHEW MISFELDT:** My name is Matthew Misfeldt, I spell M-a-t-t-h-e-w, last name M-i-s-f-e-l-d-t. Good afternoon, Chairman Briese, Briese and members of the General Affairs Committee. As I stated, I'm here today to be a proponent for LB235. My wife, Jennifer, and I own a home-brew store in Elkhorn, Nebraska, named Patriot Homebrew Supply. We are one of four home-brew shops in the Omaha and Lincoln area. Local home-brew shops, as well as on-line retailers, provide equipment and ingredients that are needed to make home-brewed beer, wine, cider, or mead. Since I last testified in February of 2017, my store recently celebrated its five-year anniversary this past October. During that time, I also became a certified beer judge in the national Beer Judge Certification Program. To this date, my wife and I continue to meet the demand for high-quality ingredients and diverse home, home-brew products. Home-brewers promote and support Nebraska small businesses and demand locally-produced home-brewed ingredients. In addition to the popular brand name products that you can find at our store, we do a lot of, we have a lot of retail products that are produced locally, specifically locally-grown hops. And then we work with local distributors to ensure that we can meet the demands for, of our customers for those local products. The local home-brew community, through their purchases,

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provide revenue, tax dollars, and support those local jobs. Our store serves as an incubator for future professional brewers and businesses. We have experienced significant sales growth every year since 2013. Home-brewers spend their money to produce a product that they share with their friends, their family, but the only real reward is the enjoyment of a quality beverage that they produce. We need to remember that because most of our professional brewers in the, in the state started out as homebrewers. I know many of them personally. With practice making home-brew, both in their home and with their, sharing it with their community, they were able to successfully open breweries and have contributed significantly to the local economy. When we opened our doors in 2013, the home-brew was permitted to be served at local events and festivals. In 2016, that changed. And as a result, I saw a decline in home-brewers that shared their beer publicly. This has resulted in a decline in repeat sales by those individual brewers. But the overall interest in home-brewing and the craft beer industry continues to grow, which has really had a negative-- it's not been a negative impact to us overall. As sales increase our collection of sales tax increased as well. And if this bill is not passed or moved forward we expect to see some stagnation in those sales which will result in a decline in sales tax revenue to the state. Home-brewing is a social hobby. It's a lot of fun. My store is a proud supporter and promoter of local home-brew clubs, competitions, and craft beer festivals which bring Nebraska's home-brew and love of craft beer to-- communities together. While the face-to-face interaction that we have as a store in these events dispensing product information and the like-- and giving away some free stickers, of course, because everybody likes free stickers-- it generates a lot of interest. But the ability to really share that home-brewed beer with a potential or aspiring hobbyist, that really seals the deal and shows them that it can be something they can do and that it's something they can enjoy. LB235 would provide us that opportunity. Through our store we hold a variety of classes every quarter and partner with local breweries and brewers to conduct free monthly seminars where home-brewers can meet to discuss best practices and the latest techniques in producing quality home-brew. In closing, the hobby of home-brewing in the U.S. continues to be popular and will continue to grow as new brewers come into the hobby. Home-brewers are dedicated to their hobby, their communities, and supporting local businesses. Passing LB235 will ensure that our hobby continues to thrive and will rejuvenate that social aspect of home-brewing. I thank you in advance for your moving this bill forward, and I'm subject to your questions.

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**BRIESE:** Thank you, Mr. Misfeldt. Any questions? Senator Blood.

**BLOOD:** Thank you, Senator Briese. Thank you for your testimony. I'm actually going to refer back because I-- you were at the last hearing we had on this.

**MATTHEW MISFELDT:** That's correct.

**BLOOD:** I thought you were. I'm going to refer back to that because it also pertains to this bill. I think there is a misconception, and I'm hoping you can help me clear this up. It's my understanding that when you go brew bill-- when you brew beer, let's try that again, brew beer-- that if something goes bad, something goes wrong it's, it's not palatable. Is that correct?

**MATTHEW MISFELDT:** Yes. As I indicated before, I'm a certified beer judge and any, you know, off-flavor, off-flavors or aromas or anything like that, as a brewer that you just didn't make a beer. You made a spoiled product that you would dispense of accordingly.

**BLOOD:** Right.

**MATTHEW MISFELDT:** So, yeah, there's, it sort of self-identifies itself.

**BLOOD:** I think there was a reference to an event in another country. And what was left out of the conversation when I looked it up was that it was something that was added to the product after it was brewed correctly. Does that sound right?

**MATTHEW MISFELDT:** I could see that scenario. I'm familiar with the story. I believe it was India. But in a lot of the classes that we teach in the process of brewing beer at home, the products that are available are just really phenomenal. And so if, if a brewer follows the established processes for producing a beverage and follows the manufacturer's instructions of the products that they use, whether it be cleaners, sanitizers, or the base ingredients, they should have no problem making a good quality product.

**BLOOD:** And the second question I have for you. Are you aware, because I'm aware of at least two, of any places in Nebraska that are now growing hops? Are you, buy any of those through Patriot at all, any of the hops?

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**MATTHEW MISFELDT:** There's a-- yes, we do. Thank you. Yeah, the Nebraska Hop Yards down in Plattsmouth is a significant a supplier.

**BLOOD:** That's the one I'm familiar with.

**MATTHEW MISFELDT:** A great product. A lot of people are very fond of theirs. We do have a lot of local, locally-produced hop yards in and around Arlington, Nebraska. There's Bauman's up in Fort Calhoun. And with the UNL lab that's come on-line, they've been a real benefit because it can actually help those local producers produce the statistics and do the analysis of their hops, which is really critical. Because we won't sell anything if it doesn't have a data sheet. And so there's a lot of, there's a lot of budding-- not to put it, I guess that's a-- hops bud. But there's some budding interest in that industry and I think we're set to really promote that.

**BLOOD:** I thought that was a great pun. And so, if I hear you correctly, not only do home-brewers often become entrepreneurs that go on to do craft brewing, but there are byproducts for both of those entities that are creating jobs also, such as people that do hops. Would that be correct?

**MATTHEW MISFELDT:** Yes. I know that there's a lot of effort in trying to produce malt or barley to be malted. That's coming along a little bit slower just because it is quite a technical endeavor, being an agricultural product. And we've worked in with some local suppliers as just, you know, just as home-brewer, they say: try this out. And, you know, it's, it's got some promise but there's going to be a little bit of time before they can get that on-line. But we'd really like to sell that product then.

**BLOOD:** Thank you very much.

**BRIESE:** Thank you, Senator Blood. Senator Lowe.

**LOWE:** Thank you, Chairman. And thank you for coming here to testify. You being a beer judge, have you made beer yourself in the past?

**MATTHEW MISFELDT:** Oh, yes.

**LOWE:** OK, what happens when your car boy or your vessels are not sanitized? Because most home-brewers beer, brew their beer in like their kitchen or their garage or some other special room. And as far

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as cleanliness, what happens with the, with that product if it's not sterile?

**MATTHEW MISFELDT:** Well, the obvious comparison would be if you had a food product at home that you left uncovered on your countertop. You will see a physical change in the product, it will actually become visually unappealing. I've actually had to throw a beer way in the past. I hate to admit that here but, you know, it was a brilliantly colored beer, it was the best beer you would ever want to ever have, but it spoiled. And it went from brilliant, clear color to a kind of a murky, muddy color. And that was just a visual indication. And then just subsequent aroma and other sensory analysis indicated it was a bad beer and it ended up being dumped out.

**LOWE:** So what you're saying is then most home-brews are fairly sterile? They've been through a very clean process.

**MATTHEW MISFELDT:** I would say yes. If they followed all the instructions of the manufacturer's products, as well as the normal process of brewing, they should not incur any problems.

**LOWE:** OK, thank you.

**BRIESE:** Thank you, Senator Lowe. Anyone else? Senator Blood.

**BLOOD:** Thank you, Senator Briese. I just want to build on what you just said to Senator Lowe because I really want to make sure this is on the record. So, again, if they don't do it correctly, if it's not done in a hygienic fashion, it's not a product that can be drunk by anybody.

**MATTHEW MISFELDT:** No.

**BLOOD:** And they know that, and that's not something that would come to a festival.

**MATTHEW MISFELDT:** Well, I mean, there's a number of person, a number of speakers in this room right now that will tell you that they would criticize them, you know, to, to the end of the earth if they made a bad product. But, you know, no, they, you know, they wouldn't serve it. No, no well-meaning--

**BLOOD:** Visually they would, yeah. It's obvious when it's going bad. I've seen bad beer.

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**MATTHEW MISFELDT:** Yeah-- I, the ridicule alone in the public venue would be just too much to bear.

**BLOOD:** Thank you. I just want to make sure we had that really clear.

**MATTHEW MISFELDT:** Yeah, no problem.

**BRIESE:** Thank you, Senator Blood. Senator Moser.

**MOSER:** What would be a typical batch size for a home-brewer? Do they make a case of beer or several cases or, or you measure it by gallons?

**MATTHEW MISFELDT:** Yes, the most typical, you know, traditionally the typical size is a five-gallon batch, which is roughly 48 12-ounce bottles of beer or one 5-gallon keg, obviously. That's pretty much the standard for all home-brew. That's the vast majority of the products we sell cater to that five-gallon batch size. It's very common.

**MOSER:** So that's a couple cases of beer?

**MATTHEW MISFELDT:** Yeah, 48. Forty-eight bottles, so about two cases of beer.

**MOSER:** Okay, thank you.

**BRIESE:** Thank you, Senator Moser. Anyone else? Seeing none, thank you for your testimony.

**MATTHEW MISFELDT:** Thank you, Senator.

**BRIESE:** Any other proponents? Welcome. Please state and say your name for the record.

**GWYN EVANS:** Yes. My name is Gwyn Evans, G-w-y-n E-v-a-n-s, I'm an officer in the Lincoln Loggers, a Lincoln-based home-brew club. And we have about 60 members. Like all Nebraskans, home-brewers are deeply invested in our hometowns and we value the opportunity to contribute to the communities in which we live. Until 2016, home-brewers helped raise tens of thousands of dollars for important causes like historical building restoration, disease research, education access, and feeding the hungry. For example, Kegs for the Cure was a home-brew festival and fund raiser that ran from 2010 to 2016 and raised \$24,000 for cancer research. The Midwest Homebrewers Invitational was an event hosted by the Omaha area home-brew clubs collectively, which ran for two years in 2014 and 2015 and raised \$13,000 for Food Bank for the

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Heartland and Midwest-- Midlands Humane Society. The David City Brouhaha was a festival serving home-brewed beer and wine that ran for nine years and raised \$20,000 for the restoration of the Thorpe Opera House. Okto Beerfest is a benefit for the Nebraska State Stroke Association and has raised over \$100,000 for the past 20-some years. The Lincoln Loggers supported the event from its inception until 2015 and would continue to participate if we were allowed. Our booth was always popular and we had many attendees who commented that the opportunity to try unusual home-brewed beer was one of the primary deciding reasons they chose to buy a ticket. In 2016, several home-brew, home-brewers donated to the first Hops for Hope benefit for the Boys Hope Girls Hope organization. They support academically-capable and motivated children in need to meet their full potential. At that event over \$10,000 was raised for their mission. Home-brewers also donate home-brewed beer to events for Pints for Prostate, which supports non-- or excuse me, it supports prostate health; the Bay, which is a community resource center for at-risk teens; MakeShift, a makerspace that promotes innovation in art technology and science; and the Lincoln Children's Zoo. My testimony is focused on the Lincoln and Omaha area because that's my community. But home-brewers and home-brew clubs throughout Nebraska invest in their communities through similar outreach. For example, the Kearney Home-brew Club participated in the October Fest hosted by the Kearney Chamber of Commerce. The Grand Island area home-brewers used, used to participate in fundraisers for the preservation and restoration of the historic Liederkrantz building. Home-brewers are happy to donate their time and home-brew to reach out to, or to restore our towns, provide education and resources to those who need it, and fund health research and outreach. The organizations helped by these funds benefit Nebraskans across the state. Some concerns that have been raised about the serving of home-brew to the public include food safety and over-service. While these concerns are on the surface understandable, they stem from a misunderstanding of the risks of home-brew. The safety aspect is, as Senator Blood discussed a little bit, unrealistic. For thousands of years humans have made beer as a way to ensure that water was safe to drink. You may end up with a bad batch of beer, as we discussed. A bad beer isn't going to kill you. First of all, you will identify it, you won't misserve it. And second, if you do drink it, it's not going to cause any complications beyond perhaps excessive flatulence. There are other items that carry a much greater risk to food safety to the public and are permitted to be sold without regulation at a permit with-- or permit at farmer's markets and similar. And again, we're not looking to sell our beer, we're just

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looking to share it with the public. The second concern is over-serving, which is a concern not unique to home-brewed beer. When the Lincoln Loggers home-brew club still served beer at events we encouraged our members to get safe serve certification. Even when home-brew beer is not provided at festivals there are still consumers who are over-served on commercial beers. The issue of over-service, while important, is distinct from the issue of serving home-brewed beer. Allowing the service of home-brewed beer neither increases nor reduces the risk of over-service. Home-brewers have the same tools available to us to determine alcohol content as professional brewers do, and professional breweries are not required to know or publicize the alcohol content of their brew. The home-brewers in Nebraska are simply a group of men and women who are passionate about our hobby and want to use our craft and expertise to benefit our communities. We do not seek any financial gain. Our beer does not pose a risk to public safety, and the consumer is no more likely to become inappropriately inebriated from home-brew than on commercial beer. This bill simply legalizes a practice that was already commonplace for decades, and I hope you will see fit to advance it. Thank you for your time and consideration.

**BRIESE:** Thank you for your testimony. Any questions? Senator Blood.

**BLOOD:** Thank you, Senator Briese. Thank you for your testimony. So when they did it before, are you aware of any incidents that had happened that may have put up a red flag?

**GWYN EVANS:** Not as relates-- it is my understanding that the issue that caused red flag was the breweries in planning, people who planned on opening businesses who were serving under that brand name but had not yet filed their tax paperwork. And so the concern that arose, from my understanding, was much more one of taxation than public safety.

**BLOOD:** And I'm glad that you knew the answer to that, because now we have that on record. So that's a good thing. Could you tell me what the average demographic is of the brewers that you deal with?

**GWYN EVANS:** Sure. Your average home-brewer is probably, honestly, a white male between the age of 25 and 50-something. Our home-brew club is overwhelmingly white, overwhelmingly male, and but it is an intergenerational thing. We have members in their 20s up to folks in their 50s and 60s or possibly older. And I really appreciate the aspect of, the social aspect of the hobby because through my home-brew



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club and through this hobby I come into contact with people that I would otherwise not have met or known.

**BLOOD:** And what skills have you picked up doing this?

**GWYN EVANS:** What skills have I've picked up? Well, for one, coming and doing this.

**BLOOD:** --public speaking skills.

**GWYN EVANS:** Public speaking. Of course I've learned how to brew, which is a good skill unto itself. I have learned how to process spent grains so I can make baked goods out of it. I do a lot of organizational things for my club as well: helping with competitions, things like that. My palate has become much more educated. I can, I know a lot more about beer and I can speak about it intelligently. It's just been a great experience being involved.

**BLOOD:** Sounds like all good things. Thank you.

**BRIESE:** Thank you, Senator Blood. Any other questions? I think I had a couple perhaps. What is the average alcohol content of home-brew and what range of alcohol contents are we talking about here?

**GWYN EVANS:** It really varies. I would say most of the home-brewers I know personally tend to be what we call session beer, which is the idea that you can have a few over the course of an afternoon and you're not going to be overly affected. Most home-brew I see in my home-brew meetings probably ranges from 4 to 8 percent alcohol. You certainly do have folks making high-alcohol stouts and barley wines, just like you would in a professional brewery. And those can get up to 10 percent or higher. But those are honestly very expensive to make. And so if you're brewing those, you're probably not taking them to a festival.

**BRIESE:** OK, thank you. You say 10 percent or higher. How high?

**GWYN EVANS:** Probably most of them top out around 12 or 13. There is a commercial brewery here in Lincoln, or here in Nebraska that makes a stout that's up around 17 percent alcohol. I don't know anyone home-brewing doing that.

**BRIESE:** And how does a home-brewer determine what the alcohol content is of their product?

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**GWYN EVANS:** Sure. You measure your original gravity, which is what, how much sugar is in the wort before the yeast starts its job. Then the yeast, over the course of fermentation, eats out the sugar and turns it into alcohol. Then you measure the amount of sugar in your, in your wort afterwards and you know how much alcohol is in it based on how much sugar was consumed. It's the same process used either professionally or by hobbyists.

**BRIESE:** Would you consider that an exact or precise science determining the alcohol content?

**GWYN EVANS:** It is fairly precise. You can also send your beer off to a lab, and some professional breweries do that. And there may be some discrepancy between what you measure at your brewery and what the lab says, but generally it's reasonably close. And, again, those are discrepancies and issues that exist regardless of whether the beer is produced in a commercial facility or in someone's garage.

**BRIESE:** OK, and you say fairly precise or reasonably close. How, how would you define that? I mean--

**GWYN EVANS:** I mean, I think within a couple percent.

**BRIESE:** Couple percent.

**GWYN EVANS:** I think someone from the professional side of things could probably speak to that better than I could.

**BRIESE:** OK. And I think Senator Blood asked about any incidents and I wasn't real clear on that. Any instance relative to public health and safety that have arisen that you're, you're aware of?

**GWYN EVANS:** None that I'm aware of.

**BRIESE:** OK. OK, very good. Well, thank you. Anyone else? Thank you for your testimony.

**GWYN EVANS:** Thank you for your time.

**BRIESE:** Any other proponents? Welcome.

**BRYAN DORT:** Thank you, Senator Briese. My name is Bryan Dort, B-r-y-a-n D-o-r-t, I am the current president of the Homebrewers Local 402 home-brew club based out of Omaha, Nebraska. I've been an avid home-brewer for seven years. As others in this room I have met, a lot

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of fellow home-brewers that have gone on to create very successful breweries, and a lot of their starts came through the festivals. I'm not going to regurg-- regurgitate all of the information that Gwyn had said. We do a lot of community work. Midwest Homebrewers Invitational out of Omaha is one of the big ones that our club has been involved in. Again, raise over \$10,000 and helping to feed our foodbank. And we worked with the Humane Society as well. Another big festival is the Habitat for Humanity Brouhaha that is done out of Omaha. I did reach out to the organizer there. They are still getting questions from their regular attendees saying when are the home-brewers coming back. We love donating for that great cause. And it's just, it's a sense of pride to be able to help out in those situations. There's been a lot of talk about health concerns. One of the big things that I can add to that is it has been scientifically proven that there are no pathogens that can survive in beer that can make you sick. This has been scientifically proven, there's a number of reasons. One, there's the presence of, presence of alcohol; the low PH of beer; the presence of hops in beer, which is actually acts as an antibacterial; and the low levels of oxygen-- excuse me, oxygen that is in beer. The question was posed as far as has there ever been illnesses that have come up. So there has been contact made with the president of the Beer Judges Certification Program, Gordon Strong. He has confirmed to his knowledge that there has never been a single case of a judge becoming ill from pathogens delivered through a beer served at a BJCP certified event. And the events have been going since 1985. They've held over 8,000 competitions and over 1.25 million beers have been tested and judged there. Additionally, the director of the American Homebrewers Association, Gary Glass, he has been with the AHA for 17 years. He also has confirmed he has never heard of a single case in which somebody was made ill from a beer that was consumed and brewed at home. I think one big thing that came out from the last time that we were, we were talking about this bill is the delineation between distilled, distillation and fermentation. We are not making liquor. We're not making whiskey, we're not making vodka. That's where you can run into problems because in the distillation process you start talking about methanol, which is toxic. That is not produced for fermenting and making beer. And really, I know there's sanitary issues. One thing to bring up there. Some beers are actually intentionally soured. It's a very popular style of beer these days, where you actually introduce safe bacteria to a beer that gives it a tart, fruity flavor. And it is actually one of the fastest-growing styles of beer. So even in those processes we are completely sanitary as we do them. And, again, there's really no way for these beers to

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make people sick. So I appreciate your time, and I hope you guys take to consideration moving this bill forward.

**BRIESE:** Thank you for your testimony. Any questions? Senator Moser.

**MOSER:** How long does home-brew keep?

**BRYAN DORT:** It, again, there's gonna be some variations depending on style. Many popular styles, hoppier styles, you want to drink very quickly before it kind of loses some of its flavor. There's other styles such as barley wines, imperial stouts that you can drink 5, 10, 15 years later.

**MOSER:** Does it lose its carbonation or does it just devolve into some chemical you don't want to drink?

**BRYAN DORT:** So if you think about kind of like a wine, the flavors will develop in some of those bigger beers. If packaged properly, you're not going to lose any kind of carbonation. You may get a little bit of introduction of oxygen, which can kind of give an oxidized flavor to it. But it's kind of expected in some of those styles.

**MOSER:** Is there a requirement to give the proceeds of a beer testing festival to charity or is that just something that the brewers do?

**BRYAN DORT:** I think it varies from festival to festival. I know the Midwest Home-brewers Invitational out of Omaha, it was specifically designed to give the money to those charities that they work with each year. Others, they have their different organizations that they work with and give proceeds to.

**MOSER:** OK. Thank you very much.

**BRYAN DORT:** You're welcome.

**LOWE:** Thank you, Senator Moser. Senator Lowe. Thank you, Chairman. And thank you for coming to testify. Are there other regional competitions around Nebraska such as Iowa, South Dakota, Missouri because they're close to Omaha you might travel to, to be in a home-brew competition?

**BRYAN DORT:** Yes, absolutely. We, we regularly compete in competitions in Kansas, also Missouri, Iowa, Colorado, Minnesota. There's also one thing I kind of left out a little bit, with the change in the home-brew laws that we have here would open up our Omaha or Lincoln, generally the state of Nebraska, the opportunity to host what's called

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the National Homebrewers Conference, which happens annually. Thousands of home-brewers travel to a city, they share it on the East Coast, Midwest, and West Coast. They alternate each year. They could come in, again, see economical impact in whatever city is that, that's hosting it. But as, as we sit right now, we're not able to.

**LOWE:** Thank you very much.

**BRIESE:** Thank you, Senator Lowe. Anyone else? Quick question. I go to an event like this that we're all envisioning here with this legislation, what assurance do I have as to the alcohol content of the product?

**BRYAN DORT:** We general--

**BRIESE:** As a consumer.

**BRYAN DORT:** As a consumer, sure. We, I can speak for my club and the clubs around in Omaha. For when we did do festivals we had a clear either white board or printed signs that said, here's what the beer is. If there was any special ingredients used, those are listed, and then what alcohol level was on there. So similar to what most the craft breweries do at the festivals, so list the name of the beer, what style it is, and how much alcohol is in it.

**BRIESE:** OK. Have you ever heard of an instance where alcohol contents or something like that was misrepresented either intentionally or unintentionally?

**BRYAN DORT:** Not, not in my experience. No.

**BRIESE:** OK. OK, thank you. Anyone else? Thank you for your testimony.

**BRYAN DORT:** Thank you.

**BRIESE:** Any other proponents of LB235? Seeing none, any other, any opponents?

**BRYAN DORT:** Thank you.

**BRIESE:** Good afternoon.

**HOBERT RUPE:** Good afternoon, Chairman Briese, members of the General Affairs Committee. My name is Hobie Rupe, I'm the Executive Director of the Nebraska Liquor Control Commission. That's H-o-b-e-r-t R-u-p-e.

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I'm here in opposition to the proposed bill. I did what make Senator Crawford's office aware this morning that we would be in opposition. Just a little history. First, home-brew was only really legalized in the United States back in 1979 by an act signed by President Carter which allowed the home-brew. And then, but of course still subject to states under the 21st Amendment. Our act, the statutory act in ours is very clearly mirrors a federal act where it allows for the personal use by the family and guests, the first [INAUDIBLE] and guests. And this was the issue that came back. You've heard a couple of things about what happened in 2016. Was there probably some violations of the law before that? Yep. Did we get any complaints about it before that? Nope. When we got complaints about a big beer festival up in Omaha and the big problem was we had a lot of breweries coming in from out of state who were trying to get in to bring product in, which of course would then be in violation if they didn't have a wholesale agreement to bring it in through the tax-- for it to be taxed properly. As we're looking at the number of quote breweries we were astonished by almost a third of them calling themselves breweries were home-brewers. They weren't calling themselves "this is Hobie's Kitchen," this is Rupe Brewery and, you know, and so we felt that there was a lot of misrepresentation being made at that location. You've also heard about competitions. We do allow competitions in the state as you've heard. There, there are multiple competitions in the state. We've taken a rather expansive definition of the word "guests" that if you're going to be inviting a guest your location or to a, to an event where it's invite only, where you've got judges-- or you heard one of the previous commentators speak, he is actually an accredited judge. And so we do allow competitions. What this bill does is not so much about competitions but about expos. This wants, this proposed bill wants people to be able to not serve their beer to an identifiable market i.e. through their clubs or through a competition but to the general public. And I guess that's where the concern really comes in because at that point you're mixing regulated product with nonregulated product. I will give the previous testimonies they're-- cause you're absolutely right for the most part. If you screw up a beer all you're gonna get is a bad tasting beer. There's very few instances of people getting sick, unlike the distillation which can kill and blind you. However, if I'm a licensed brewery in Nebraska, I've applied for liquor license. I've been vetted by the Nebraska State Patrol. I've been vetted by the Fire Marshal's Office, I've been vetted by the Department of Agricultural Foods and Dairy Program. So you understand, more importantly, I'm still subject to investigation and examination by those same entities. I have home-brewers, friends of mine. Some of

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their beers I will drink, I've seen their kitchen. There's one of my friends who continues trying to give me beer and I keep saying no. I've seen his kitchen. What you've heard so far is the people who are the high end of the home-brewers. They know what they're doing. My concern isn't the high end, it's the guy who doesn't know what he's doing. What's he going to put out there? And especially not so much sitting on the back porch with a couple of his buddies but taking it to a public event where he's sort of holding it out there to the general public who might not know him from Adam being able to go along and drink his beer. This bill also, although technically we can do it because we got to love the 21st Amendment, would put us in conflict with the existing federal laws. And federal laws also are for family and guests. Other states have done it. Got to love the 21st Amendment. However, there is an implication within the act, 53-117, that at least for rules regulations that the commission not be inconsistent with federal laws. Of course, you guys can make whatever laws you would like on that one. ABV. Is it a requirement of Nebraska's, in Nebraska's Liquor Control Act that they lists their ABV? No. Most of your breweries who are licensed breweries are also have licenses from TTb, a brewers notice from the Trade and Tax Bureau. A lot of those beers also go into interstate commerce, which means they've acquired what's called a COLA, certificate of labeling authority. You darn know the ABV is listed quite clearly on the on, on the colas so they get it, so they know what, what ABV you're looking at. And I guess that brings us to the last issue here, or not the last issue, there's one other issue-- I see I'm running short on time here. I hope you all have a little-- if a licensee screws up, if they sell to a minor, if they sell to somebody to the point of intoxication, there's a remedy in the Liquor Control Act to suspend, cancel, or revoke that liquor license. With that great, with that great ability comes the responsibility to comply. There is no such conflict-- there is no such ability to force a home-brewer to comply. If a home-brewer serves to a minor, the only avenue is criminal. There's not, there's not the other added way to bring them into compliance under the Liquor Control Act. We really think this is the camel's nose under the tent. I know that's a, that's a very old argument that's used. But we've taken a pretty expansive view on competitions and what a guest is. Oftentimes I've got her-- we've approved, we have been asked that the uncle's a home-brewer and wants to supply some beer to the wedding reception, provide to a wedding reception. You know, that's guests, as far as we're concerned. This takes it one step beyond. This takes it beyond the guests out to the general population and we think that serves some serious concerns. It's not like the brewery industry in Nebraska is

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not doing well. The craft brewery industry in Nebraska is one of a few that's still growing. I anticipate many of these people who are craft brewers to, to go down the same road and become brewers. It's just the idea of using these for public test marketing for their, for their type of brewery to go forward, which was happening under some of the breweries in planning, just really, you know, it starts-- you either you're a license brewery and you're out there in the public or you're not. So that's the position the commission takes, takes. And also one last thing. I'm getting really concerned about the number, about the amount of home-brewer brew that's being made. Under federal law you're limited to 100 gallons, if you're an individual; 200 gallons if you're a household with two or more individuals of drinking age. If you're going to multiple competitions, how soon are you going to be kicking over that annual gallonage amount? And you already heard that the five gallon, you know, every batch is the five gallon. You know, that's 20 batches. I'm for sure some of these are build, are making more than 20 batches a year. With that, I see I'm onto the red time, I apologize for going over. Thank you for your indulgence. I would be happy to answer any questions.

**BRIESE:** Thank you for your testimony. Senator Blood.

**BLOOD:** Thank you, Senator Briese. Thank you for your testimony.

**HOBERT RUPE:** Thank you, Senator.

**BLOOD:** So since you quoted H.R. 1337, President Carter's bill, and you referred to what they're allowed to brew, first I want to say I am a little concerned at your, at your comparison because wasn't there an amendment done by four senators to that bill? And the point of the bill was to get equal treatment under the law? Was that not part of that bill?

**HOBERT RUPE:** I'm not sure about that bill. I'm aware of the illegal amount and when home-brew was made, was first allowed.

**BLOOD:** Well, I'm pretty confident that that's what the amendment was.

**HOBERT RUPE:** Yeah.

**BLOOD:** I'd probably bet a dollar on that. Which don't tell the gambling people that came before you.



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**HOBERT RUPE:** Well, the lovely thing about the 21st Amendment is we can restrict things somewhat so long as there's a rational basis regarding that on the sale of alcohol.

**BLOOD:** And I hear your concerns about the 100 gallons and the 200 gallons per household, 100 gallons per adult. But the concern I have is, is that if most homebrewers, and since you say you have friends that home-brew, I mean--

**HOBERT RUPE:** Yes, one of my employees actually.

**BLOOD:** Is it really probably that they're making this much, based on the size what most home-brewers have? Wouldn't you say that that's true?

**HOBERT RUPE:** I would say probably most home-brewers aren't. As I said, the ris-- reason for the complaint was we had people who were holding themselves out as breweries, calling themselves breweries. Saying come visit our brewery, it's soon to open, and selling and having lots of product there. I, I'm, I really don't want to get down to the idea of having to call the police and have them go to somebody's house to think-- or the feds, actually, and say they're in violation of federal law.

**BLOOD:** But that's something as simple as saying that they cannot promote themselves that way at these festivals. Is that not true?

**HOBERT RUPE:** Well, that is a way to look at in. I mean, I just was going back to what sort of sparked the incident in 2016.

**BLOOD:** That's fair.

**HOBERT RUPE:** It had grown. That's, that was the concern that really raised at the commission. We had people that's calling themselves breweries who, last time I checked, they had no license and no application, nothing on file.

**BLOOD:** And then the people that you're, you're regulating that are paying the taxes and paying the fees, they're also making a profit off of what they--

**HOBERT RUPE:** Yes, they here.

**BLOOD:** So I think that that's a clear difference between the two.

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**HOBERT RUPE:** Well, you would hope they're making a profit. Some of them might disagree on how much. But you're right. I mean, the difference is, is-- one, is an entrepreneur. They've taken this next step to be an entrepreneur. They've taken their hobby and decided to monetize it.

**BLOOD:** It's a pristine example, yeah.

**HOBERT RUPE:** And I think that's where the differences is, is I think this bill really starts blurring that line between what's a hobby and what's a commercial aspect. Once you're out there in the public allowing people to drink it, that's, that's where the concern begins.

**BLOOD:** But aren't all craft brewers just home-brewers who get sick of giving away free beer to their friends?

**HOBERT RUPE:** You know, you would have to ask some of them. I know some of them, maybe some of them just like the business model.

**BLOOD:** And it's a great business model.

**HOBERT RUPE:** It's a great business model.

**BLOOD:** I think we've done a really exceptional job here in Nebraska helping to embrace that part of, of entrepreneurs here in Nebraska. And I want to make sure that we continue to do so. I know you and I don't probably see eye-to-eye on this particular bill but I think that there's some gray areas that can be easily changed with some language.

**HOBERT RUPE:** I would say, you know, Senator Blood, on most things we probably do agree with home-brewers.

**BLOOD:** We do.

**HOBERT RUPE:** On this one here we might have a disagreement, but we can disagree without being disagreeable. This isn't Washington.

**BLOOD:** We'll still be friends. Thank you.

**BRIESE:** Thank you, Senator Blood. Senator Moser.

**MOSER:** Are the festivals and competitions required to get a license?

**HOBERT RUPE:** Yes. If, if there is a festival where there is a, is alcohol being served, there needs to be a license of some sort. If it's being sold, especially you need a license, or it's open to the

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general public, which most of these festivals would be. You probably, it's either on a licensed location where they're asking for dispensation to bring other product on, or more than likely it's probably done under what's called the special designated license, an SDL, where they would have a competition. And the reason why they actually like to do it in an SDL is there's the, the rule against multiple drinks, where you can't sell unlimited beer for a certain amount of price. However, under SDLs and it it's a competition or if it's tasting-type, tasting scenario, that rule doesn't apply. So you would come in, you would pay one fee, and then be able to try multiple beers at places. That's sort of designed for that aspect. So there, if there is a license of some sort which, once again you're bringing nonlicensed product under a, onto a licensed location.

**MOSER:** But so when you're talking about serving people too many beers or getting intoxicated, would that fall back on the person who got the license?

**HOBERT RUPE:** Generally, the holder of the license can be held subject to it. What happens a lot of these multiple tastings is all the vendors will get an SDL because they want to be able to sell the product off-site instead of just having a tasting. They will actually want to have some for sale to go. So generally they will get an SDL allocation so they can do it because that's the way, the way they can sell it for off-premise. So, you know, honestly we prefer to have the person who actually makes the mistake be liable instead of having some general liability. So we try to drill down and see who served the person last.

**MOSER:** Well, you'd hope somebody would be supervising them so that it wasn't just a drunken brawl, I mean.

**HOBERT RUPE:** And unfortunately we've heard of both. Some well-rans ones and some other ones where, yeah, it's people get over, overcelebratory.

**MOSER:** Thank you.

**BRIESE:** Thank you, Senator Moser. Anyone else? Senator Blood.

**BLOOD:** Thank you, Senator Briese. I'm sorry. Whenever I listen to testimony it always gives me more questions. So you know I previously sat on a city council.

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**HOBERT RUPE:** Yes.

**BLOOD:** And so if somebody has at an event, what is the first-- and it involves alcohol-- what is the first thing they have to do?

**HOBERT RUPE:** First thing they have to do is get approval by the local governing body.

**BLOOD:** And that local governing body will say is there a fence or some kind of barrier around this event that's going to prevent minors from coming in, or will there be a system with wristbands or-- right?

**HOBERT RUPE:** In a perfect world, yes, some, some, some locations do more of their job than others.

**BLOOD:** I can only speak for the perfect world I come from.

**HOBERT RUPE:** Yes.

**BLOOD:** So it could either be approved or not approved by the local government.

**HOBERT RUPE:** Yep.

**BLOOD:** And then it goes to where?

**HOBERT RUPE:** Well, if it's not approved under an SDL, if you're talking about an SDL, if it's not approved, it's dead. It goes nowhere.

**BLOOD:** OK.

**HOBERT RUPE:** If it's approved, it can go to the commission. SDLs must be approved by both. I can tell you we've had situations where the commission has had to disapprove after approval.

**BLOOD:** Or approved after disapprove. I know we disapproved one that you guys approved.

**HOBERT RUPE:** I don't think so. That was-- when was that have been?

**BLOOD:** 2009. We can discuss that outside.

**HOBERT RUPE:** Outside. I don't believe we did. I mean, I you might mean-- because an SDL must be approved with, I mean, an SDL must be approved by both. The indication I'll give you where we had to start

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canceling somewhere, well, people might remember the Comstock festivals which were, had turned into pretty drunken debauchery locations. And so we started having to intervene in any of their, and put some conditions on them. You know, the theory is, is sometimes, you know, the commission is outside the local politics. You know, it's not, you know, they're, they're going to look at health, safety, welfare and not so supposedly hopefully be compelled by local politics. So we've had to deny them before for that. I can't remember us approving one after they disapproved. We'll talk later on, I can't recall that one.

**BLOOD:** And so don't these events usually carry some sort of event insurance as well, and have participants sign liability waivers?

**HOBERT RUPE:** Well I'm not sure if, I'm not sure if all the guests are signing liability waivers. I mean, I'm--

**BLOOD:** Not the guests.

**HOBERT RUPE:** Yeah. Well, and that's, that's the end person. The end person is, is-- the person I'm looking to protect is the person who shows up to a beer festival to try Nebraska craft brewers and thinks they're drinking Nebraska licensed craft beer and they're drinking it from a, a nonlicensed entity.

**BLOOD:** Which, which you've basically said though, too, does not necessarily mean that anything is wrong with it.

**HOBERT RUPE:** Well, you hope there's nothing wrong with it. But, but once again, it's not made under the same conditions which are guaranteed under the Liquor Control Act. There's not the tax which has been paid under the Liquor Control Act, which is a huge difference.

**BLOOD:** Because they're not selling it.

**HOBERT RUPE:** Exact, exactly. Well, but, but even, even if a brewery, even if a brewery is donating beer they have to pay the tax on it.

**BLOOD:** But again, that's their livelihood and they can invite people back to their place of business. All right, thank you. And we'll talk about that outside the--

**HOBERT RUPE:** Yeah.

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**BRIESE:** Anyone else? Thank you, Senator Blood. Senator Lowe.

**LOWE:** Thank you, Chairman. Thank you, Chairman, for being here. Is there any way that the liquor commission and then Senator Crawford can get together to maybe see a way to get something like this bill to come through so that these home brewers can do competitions, can do other things like that that they'd like to do?

**HOBERT RUPE:** Well, I mean, I would always say we would always deal with any senator who wants to help us address our concerns for public health, safety, and welfare. I spoke with Senator Crawford's office last year on their bill that year but I did not speak-- no one approached me, I didn't not know this bill was coming until it was introduced. So in that regard here, I mean, I hope that most of you would realize if I'm very available to deal to help you. We might not have been agreeing with it, with each other but also, you know, before what the commission's position is. And we're a willing work with any senator. So I guess I could do that. I can't say what the end result will be agreeable, but I can tell you we would be willing to work with them.

**LOWE:** I appreciate that.

**BRIESE:** Thank you, Senator. Lowe. Anyone else? Question, how do other states handle this?

**HOBERT RUPE:** Very confusing and mismatched. In fact, it wasn't, I believe, and I could be wrong, until 2014 were all 50 states allowed home-brew. I think it was either Utah or Alabama probably, I think it was Alabama, actually, was the last one that would even allow it. And so you've got a little of a mix-match. Mostly they, although some might have more expansive rights, they try to follow what the feds do and try to say a friend, friends, family, and guests. And most of them have taken an administrative position similar to ours on why, on competitions where you have experts. Yeah, I guess in my mind I, if an expert knows he's trying home-brew I have less of a concern about having to protect them, because they should know what they're getting into. As opposed to the general unknown populace. So, so there's, there's a mix-match. For instance, I think Connecticut limits it to 50 gallons that say you can have available, they have in statute a rule, a lower gallonage than the feds allow.

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**BRIESE:** But other states generally don't go this far as what they're trying to [INAUDIBLE].

**HOBERT RUPE:** Some do. I will say California is-- well, California is California. On what, so I think they probably go actually further than this statute on allowing access to home-brew. And Colorado I think, too, Colorado is very prohome-brew.

**BRIESE:** OK, very good. Well, thank you for your testimony.

**HOBERT RUPE:** Thank you.

**BRIESE:** Any other opponents? Welcome.

**BRENNEN MILLER:** Good afternoon, Chairman Briese and members of the General Affairs Committee my name is Brennen Miller, spelled B-r-e-n-n-e-n M-i-l-l-e-r, appearing before you today representing our client, the Associated Beverage Distributors of Nebraska. For time's sake, I'll keep my testimony brief today. We all know that there are great home-brewers out there that are making some great beer and some take the leap to move a hobby into a profession. However, as supporters of the three-tier system, a system that has safely regulated the manufacturer, distribution, and sale intoxicants to the public, we appear today to echo the regulatory concerns brought to you by Mr. Rupe of the Liquor Control Commission. When I called this morning to let Senator Crawford's office know that we would be testifying, I said I would keep it brief. And with that, I conclude my brief testimony. Thank you.

**BRIESE:** Thank you. Thank you for your testimony. Any questions?  
Senator Brandt.

**BRANDT:** Specifically, what's your issue?

**BRENNEN MILLER:** Specifically we think that there is a difference. You know, I grew up in a neighborhood with a lot of home-brewers. I have friends who do a lot of home-brewing now. Having a few friends over to taste your beer and have a good time, that's one thing. But when it goes out to the general public we think that moves into a different category.

**BRANDT:** All right, thank you.

**BRENNEN MILLER:** Thank you.

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**BRIESE:** Thank you, Senator Brandt. Anyone else? Thank you for your testimony.

**BRENNEN MILLER:** Thank you.

**BRIESE:** Any other opposition testimony? Welcome.

**CHRIS WAGNER:** Thank you. My name is Chris Wagner, C-h-r-i-s W-a-g-n-e-r, and I am the executive director of Project Extra Mile, which is a statewide nonprofit working to prevent and reduce alcohol-related harms.

**BRANDT:** Thank you.

**CHRIS WAGNER:** I would echo the concerns of those that fall, that preceded me. We're certainly concerned about time home-brewers presenting themselves as craft brewers, as, as, entities that are subject to the Liquor Control Act and it's laws. What I would also kind of want to just really focus on is the public health and safety aspect, or the public health aspect of this. There was mentioned earlier as to the, you know, the sanit-- sanitary conditions. That's, that's a definite concern of our organization. So the alcohol is not really an ordinary commodity, it's fundamentally different. It's a legalized drug that, you know, when consumed in excess and when produced under unsanitary conditions, can, can be dangerous. So what we're really concerned about is the fact that these folks are operating outside of that system and, and making that product available to the general public. And not having those that the ability for public health and safety officers to inspect the premises to ensure that the product is being manufactured in a, in a safe manner really puts the general public at risk. I wanted to draw your attention to the handout that I included, which is from the CDC. It talks a little bit about botulism. Specifically I want to note on that handout that, that there are, there-- it says very directly that there are, you know, the cases of botulism in terms of homemade fermented alcohol has been restricted to our prison systems in various states. But they do note that anybody that that engages in consuming this product is putting themselves at risk. And I would note also how, under How Can Pruno Give Me Botulism they've specifically bolded the fact that, you know, the toxin that creates botulism is, you know, you can't see it, you can't smell it, and you can't taste it. So that, that, that kind of goes against what was said earlier in terms of public health and safety or the public health aspect of it. It also notes that the toxin actually isn't destroyed by the alcohol in the



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beverage. And then it goes on to note some of the consequences or, you know, the symptoms of botulism as well. So I just thought that the committee would appreciate having this information as it considers what to do with LB235 moving forward. But certainly our organization is definitely concerned with the fact that these, these, these locations are not subject to inspection by public health officers. And so with that, I would conclude my testimony, urge the committee to indefinitely postpone LB235. I'd be happy to take any questions you might have.

**BRIESE:** Thank you for your testimony. Senator Blood.

**CHRIS WAGNER:** Yes.

**BLOOD:** Thank you, Senator Briese. Thank you for your testimony.

**CHRIS WAGNER:** Sure.

**BLOOD:** So I'm reading through this. This really doesn't refer to beer, this refers to things like, like I worked at the prison and they used to make hooch all the time out of fruit and old bread in the mop buckets and in the toilets. I don't know why you would want to drink that. And I'm reading through this, and really the way beer is produced, I mean, it takes, what, three days for botulism to form, right?

**CHRIS WAGNER:** I am not an expert on botulism, I am just presenting you the expert's opinion on this.

**BLOOD:** The way-- so I agree with if they're making hooch, if they're making hard liquor, they're making white lightning. But when it comes to beer, just based on the process and how it's made, I really don't think botulism is, is something that we should be discussing, especially when you read this. It doesn't say that beer, does it? Do you see beer on here? Am I missing it as one of the concerns they have?

**CHRIS WAGNER:** Essentially it's saying homemade alcohol, fermented fruit, sugar, water--

**BLOOD:** Right.

**CHRIS WAGNER:** And other ingredients.

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**BLOOD:** Yeah, that's hooch. So I just want to say that I personally think this is a misrepresentation. I agree with everything it says about white lightning, hooch, stuff that they're making high-alcohol contents. But this particular thing does not refer to beer.

**CHRIS WAGNER:** If I'm not mistaken, the, is the bill itself does mention other types of alcohol aside from beer. If that's correct. And that I don't know. But I'm quite sure that the, the bill itself mentions wine as well and other beverage, alcoholic beverages.

**BLOOD:** OK, that's fair. I just want to make sure that if we're gonna read and talk about something and put it in the record that we also make sure that it's accurate. All right, thank you.

**BRIESE:** Thank you, Senator Blood. Anyone else? Thank you for your testimony.

**CHRIS WAGNER:** Thank you.

**BRIESE:** Any other opposition testimony? Seeing none, anyone testifying in a neutral capacity? Seeing none, we do have some letters here in support of LB235. A letter in support from David Brown; a letter of support from Ryan Larson; letter in support from Julie and Bill Kane; letter in support from Dustin Kopit; letter in support from Gary Glass; letter in support from Chris Evans; and a letter in support from Adam Ogura. And that concludes our hearing on LB235. Thank you. Up now we have LB624. Welcome, Senator Williams.

**WILLIAMS:** Thank you, Chairman Briese and members of the General Affairs Committee. I'm here today to introduce LB624. My name is Matt Williams, M-a-t-t W-i-l-l-i-a-m-s. I represent Legislative District 36 in the Nebraska Legislature. And this bill is very similar to a bill that I was here a few weeks ago and introduced on behalf of the Grape and Wine Growers. LB624 was introduced at the request of the Nebraska Craft Brewery Board. Currently, Section 53-502 prescribes that the membership terms for members of the Craft Brewery Board all expire at the same time with the option of reappointment by the Governor. The board has recognized this as problematic because if all members do not serve a new reappointment term no one-- there will be no institutional knowledge left on the board for the newly-appointed members. LB624 would amend Section 53-502 to stagger the terms of the board members after the expiration of their current terms in 2022. Members will still serve for three years at the appointment of the Governor, and the Governor will still have the discretion to reappoint members to

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the board. However, under LB624, when new members are appointed there will be existing members still serving on the board and, thus, the lack of knowledge on the board's activities by the members as a whole will not be an issue. Therefore, I urge the committee to advance LB624 onto General File so that the Craft Brewery Board is structured in a way that preserves the knowledge for the work they do. I'd be happy to answer any questions.

**BRIESE:** Thank you, Senator Williams. Any questions of Senator Williams? Seeing none, thank you for your testimony. Any testimony in support of LB624? Welcome.

**ZAC TRIEMERT:** Thank you. Good afternoon, Senator Briese, everyone, please senators presiding over the General Affairs Committee, I thank you. My name is Zac Triemert, that's Z-a-c T-r-i-e-m-e-r-t. I am the owner of Brickway Brewing Distillery in Omaha's historical Old Market district. I am also the chair of the Nebraska Craft Brewery Board. I'm here today to speak in support of LB624. Senator Williams, I'd like to thank you for introducing this bill. This bill, as Senator Williams said, is designed to stagger the terms of the Governor-appointed members of the Nebraska Craft Brewery Board. The Nebraska Craft Brewery Board came out of LB1105 and was signed by Governor Ricketts in 2016. Since then, the Governor has appointed two brewers, two distributors, three at-large members, and two ex officio members from the Department of Agriculture and the Department of Tourism, respectively, and we all make up the board. The board receives funding from beer shippers, licenses, annual brewery contributions, and donations. Annually, this gives the board somewhere between \$100,000 and \$130,000 to fund projects that support agricultural diversity and economic development for the Nebraska brewing industry. Our mission is to work on collaboration towards a profitable, sustainable future that advances the interests of Nebraska growers, brewers, distributors, retailers, and allied trade to promote and market grow local, brew local, buy local. Also to support advocacy, business development, education, and research that will enhance the economic condition of agricultural and brewing industries in Nebraska. We have broken down funding into three distinct areas and we separate that with research, promotion, and education. In the past two years we have funded 13 projects, and those include Nebraska hop and barley research, a beer tasting-- excuse me, a beer testing lab at UNL. We sponsored the annual Grower Brewer conference and helped fund the Nebraska Craft Brewery Guild executive director. Personally, I have been commercially brewing in Nebraska for nearly 20 years. The level of growth and

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sophistication that I have seen from our growers, brewers, distributors, allied trade, and retailers has sky, skyrocketed in the past five years. The support of the General Affairs Committee and the Nebraska Legislature has been paramount in this success, and I extend my gratitude for that. Considering this bill, LB624, please know that it will greatly improve the board's administration of these funds by staggering the board member terms. The current board has worked hard to get all of the current systems up and running. Having continuity in leadership will set the board up for future success. I thank you for your time and consideration, and I'm welcome to open up to any questions.

**BRIESE:** Thank you, sir. Any questions? Seeing none, thank you again for your testimony. Anyone else in support of LB624? Seeing none, any opposition testimony? Any neutral testimony? Senator Williams? Senator Williams waives. Thank you, Senator Williams. That concludes our hearing on LB624 and that concludes our General Affairs hearing for the day. Thank you.