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Judiciary Committee  
February 13, 2008

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[LB764 LB769 LB1032 LB1042 LB1055 LB1167]

The Committee on Judiciary met at 1:30 p.m. on Wednesday, February 13, 2008, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1167, LB1055, LB1042, LB1032, LB764, and LB769. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Ernie Chambers; Vickie McDonald; Amanda McGill; Dwite Pedersen; Pete Pirsch; and DiAnna Schimek. Senators absent: None.

SENATOR ASHFORD: Good afternoon everyone. We're about ready to get started. We're going to get started very quickly because Senator Pedersen has to introduce this bill and then go to another bill, and then he has other things he has to do, so we're going to do that. I'm Brad Ashford. I represent District 20 in Omaha. And my colleague, Senator Steve Lathrop, is here to my right; and Pete Pirsch from Omaha; and, of course, DiAnna Schimek from Lincoln; and our other colleagues will be joining us soon. And Senator Pedersen from Elkhorn is going to introduce the first bill. How many testifiers do we have on LB1167? Okay. We have a light system. We're going to turn on the yellow light when we ask you to start summing up. We're going to give you about three minutes to give us your testimony, and then you can...we'll be asking some questions and that won't count against your time. Senator Vickie McDonald is here from St. Paul, Nebraska. So with that, Senator Pedersen from Elkhorn.

SENATOR PEDERSEN: Thank you, Senator Ashford and colleagues on the Judiciary Committee. For the record, I am Senator Dwite Pedersen, representing the 39th Legislative District, and I'm here today to introduce to you LB1167. Several months ago, I was contacted by several people who were interested in discussing possible ways of keeping people from drinking and driving. As you know, during my years in the Legislature, I've introduced several bills dealing with ignition interlock devices. I have a real interest in utilizing today's amazing technology to make it possible for persons who have been convicted of violating our statutes governing drinking under the influence to be able to drive to work and to court-ordered treatment programs legally after a period of hard revocation. In my substance abuse practice I see evidence every week that our current laws do not deter people from driving. In our state where there is little choice in the way of public transportation and where most people are required to drive to get to their jobs, or to treatment programs, church, and so forth, my clients run the risk of being caught driving under a suspended license because they have no other alternative. Over the past few months I have been made more aware of the continuous alcohol monitoring device and how it can be utilized in conjunction with a state-sponsored 24/7 sobriety program to help people abstain from consuming alcohol or illegal drugs. LB1167 is based on the South Dakota 24/7 sobriety program, which has been so successful that an evaluation of the program concluded that the overall result of the program is a reduction in program participants drinking and driving. Based on South Dakota's experience, North Dakota began a pilot program in 12 of its counties last

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month. As currently drafted, this bill creates and provides for Nebraskans to participate in a statewide 24/7 sobriety program to be administered by the Office of Probation Administration. Participants in the program are to abstain from consuming alcohol or otherwise using any substances containing alcohol or illegal drugs. This abstinence is to be verified by twice-daily breath testing or continuous alcohol monitoring, and the absence of drugs is to be verified by twice-weekly urine or blood testing. A 24/7 sobriety fund would be established to defer the costs of the program to include donations, gifts, grants, and money collected as fees or payments. It is my understanding that, once established, the program goal is to be self-funding. LB1167 provides that the Office of Probation Administration may run the program or contract it out to another entity, and that there will be a testing location in each probation district or county. As the bill is currently written, participation in the 24/7 program may be a condition of granting a suspended sentence or probation, but it is to be required for any person convicted of a second or subsequent DUI or any violation where the BAC was .15 or above. Any person who has been incarcerated on a second or subsequent charge or who has a first offense .15 or above shall attend the program upon release from incarceration. The Board of Parole may make participation in the 24/7 program a condition of parole for any person who has been incarcerated within the state prison system or who has been convicted of a second or subsequent DUI or who has had a BAC of .15 or above. The Office of Probation Administration would report annually to the Legislature regarding the number of days of incarceration that were avoided by participation in the program and the annual costs of implementing and sustaining the program. The bill states that the inability to pay the fees shall not preclude a person from participating in the 24/7 program. That is a brief rundown of the bill. Now let me tell you that, frankly, I became involved with this bill in late December and only decided to drop it in on the last day of bill introduction. I am well aware the bill needs more work and that we would need to provide additional information that I do not have available at the present time for the Legislature in order to shepherd this bill through the legislative process. I do believe, however, that this is an idea that is working in South Dakota and that is something that we should be looking at seriously. I am grateful for those who will be testifying following me, who can bring you additional information about the continuous alcohol monitoring devices, who can tell you more about the South Dakota program and how it is working, and who can tell you what would need to be done to make this program work in Nebraska. I believe that we need to get the stakeholders together and see if such a program is feasible and practical for our state, and I would hope that we would be able to take this idea to an interim study with the goal of introducing an actual plan of action in the next legislative session that will put Nebraska on the cutting edge of utilizing technology to combat drunk driving. Thank you for allowing me this opportunity to discuss this 24/7 program. I look forward myself to hearing the testimony, which I will not be here for part of it--but we are monitoring it in my office--and hope that you will support it. I do want to add that we do a little bit of this, and the people that will be testifying on this bill will tell you about that. Probation is...parole is using some of it now. Probation is using some of it now with grant money that they got from the Office of

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Community Corrections, so we have a little bit of a taste of it coming in the state. And I handed out a letter that Deb Minardi, who's the head of that particular program with Probation, sent to the committee. With that, I would close and answer any questions I could for you. [LB1167]

SENATOR ASHFORD: Any questions? Senator Schimek. [LB1167]

SENATOR SCHIMEK: Yes, thank you, Mr. Chairman. Senator Pedersen, I really like what you're trying to do here. I have two questions. One involves the wording on page 2 at the bottom. It says, "or may contract with an entity willing to conduct the program..." Is that a normal kind of practice? [LB1167]

SENATOR PEDERSEN: Yes. Right now, what we do have with the alcohol sensing equipment that they put in the cars, the ignition interlock, we contract with those companies, and Probation will send you over to this company and they'll install the machine. And they do the reading of the machine,... [LB1167]

SENATOR SCHIMEK: They do the monitoring and everything? [LB1167]

SENATOR PEDERSEN: It's got a computer with it--and then they send it back to Probation. [LB1167]

SENATOR SCHIMEK: Okay. [LB1167]

SENATOR PEDERSEN: That's an example. [LB1167]

SENATOR SCHIMEK: And that's the way other states, I presume, do it as well? [LB1167]

SENATOR PEDERSEN: Um-hum. [LB1167]

SENATOR SCHIMEK: The second question concerns the fiscal note, and you said you're not done working on this bill. [LB1167]

SENATOR PEDERSEN: That is why it's an interim study. The fiscal note is unbelievable. [LB1167]

SENATOR SCHIMEK: Yes. [LB1167]

SENATOR PEDERSEN: And we knew that was going to be that from the start, but I do want to reiterate that South Dakota is doing it on complete, with the level, no-cost basis. [LB1167]

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SENATOR SCHIMEK: Are they using their own personnel then to monitor? [LB1167]

SENATOR PEDERSEN: They use personal money. They've got donations of some of the machines. The people that are testifying will tell you a little bit more about it because they do deal with them in that state. [LB1167]

SENATOR SCHIMEK: So they are not hiring it out to some company? They're doing all of that internally? [LB1167]

SENATOR PEDERSEN: They do some of it, you know, with Probation, and they do some of it...rent it out. They'll be able to tell you more about it the same way. [LB1167]

SENATOR SCHIMEK: Okay. Thank you. [LB1167]

SENATOR ASHFORD: Thank you, Senator Pedersen. Yes, Senator Chambers. And welcome. [LB1167]

SENATOR CHAMBERS: Thank you. It's nice to be here. Senator Pedersen, I see the numbers 24/7 several times in the bill. Is that 24 days a month, 7 hours a week? [LB1167]

SENATOR PEDERSEN: That is 24 hours a day, 7 days a week. [LB1167]

SENATOR CHAMBERS: Does it say that in the bill? [LB1167]

SENATOR PEDERSEN: I don't...probably not. We could probably explain that next year when we... [LB1167]

SENATOR CHAMBERS: So it could be what I...well, you... [LB1167]

SENATOR PEDERSEN: ...when you and I aren't here, we hope they will know what that 24/7 means. [LB1167]

SENATOR CHAMBERS: Okay. That's all I have. Thank you. [LB1167]

SENATOR ASHFORD: Just very briefly. You know, I really like this as well, as Senator Schimek. And, you know, I might want to kind of push you to maybe get something out this year because I think that it's something we ought to consider doing, and maybe do a couple of pilot programs somewhere in the state. The experience in South Dakota, where the savings are in the \$20 million range, is almost...it's almost legislative negligence not to do something with this thing. [LB1167]

SENATOR PEDERSEN: It only makes sense. [LB1167]

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SENATOR ASHFORD: And it keeps people from driving, and it...one of the things--and I'll let you go because I know you've got to go--but one of the things which struck me in this and some of the reports, people who are in the program and who actually were thankful for the program and were thankful that they actually went to wherever it was, that they took the test twice a day or whatever and said, this is a good lesson to me and I'm learning from this. And I'm just...I think I don't know how we can do it but I certainly am willing to work on something that would come out this year that would put this in place in a couple parts of the state. But I leave...it's your bill, but... [LB1167]

SENATOR PEDERSEN: Okay. Well, let me tell you, Senator, we do have some pilot programs going on. Community Corrections is paying for one of them. Probation. That's the letter that Deb Minardi sent out. [LB1167]

SENATOR ASHFORD: Right. [LB1167]

SENATOR PEDERSEN: Parole is using them. One of my inmates that I've been quite close to for many years, on parole, he's wearing one of them. [LB1167]

SENATOR ASHFORD: And maybe we could pass the bill, implement it in a year or... [LB1167]

SENATOR PEDERSEN: Yeah. The difference between this and the ignition interlock is basically a world of difference--but it's money right now. This costs a lot of money. The ignition interlock only makes sure that you can't drive that car when you have alcohol on your breath. [LB1167]

SENATOR ASHFORD: This is a bit more. [LB1167]

SENATOR PEDERSEN: This machine says you're sober all the time. [LB1167]

SENATOR ASHFORD: Right. This is really important. [LB1167]

SENATOR PEDERSEN: You wear it on the person, 24/7, Senator Chambers. [LB1167]

SENATOR ASHFORD: But if there is a savings after the first year,... [LB1167]

SENATOR PEDERSEN: Yeah. [LB1167]

SENATOR ASHFORD: ...and we're dealing primarily with cash funds, then I'm not sure the fiscal impact is going to be that significant. [LB1167]

SENATOR PEDERSEN: South Dakota is a poorer state than we are. If they can do

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it--and saving money--and without cost, we could too. [LB1167]

SENATOR ASHFORD: But anyway I'll let you go. I know you're busy today, but thanks, Senator Pedersen. [LB1167]

SENATOR PEDERSEN: You bet. Thank you. I'll be back as soon as I introduce the bill in Revenue. [LB1167]

SENATOR ASHFORD: Well, we'll be looking forward to that. Come on up. How many testifiers do we have? Okay, one more. Okay, thanks. Come on. Good afternoon. [LB1167]

MATTHEW MITCHELL: (Exhibits 1 and 2) Good afternoon. Thank you. Thank you for the opportunity to hold this hearing on LB1167, an act leading to the creation of a statewide 24/7 sobriety program for DUI offenders in Nebraska. This program will focus on imposing tighter monitoring measures on repeat alcohol offenders which potentially will help reduce the numbers of DUI-related incidents in Nebraska. My name is Matthew Mitchell and I'm the Rocky Mountain regional manager for Alcohol Monitoring Systems, the manufacturer of the secure continuous remote alcohol monitoring device that's currently being used in the Nebraska pilot. This proposed act provides Nebraska with an opportunity to consider a comprehensive DUI monitoring and rehabilitation program. Within the confines of this program, offender sobriety will be monitored through twice-a-day breath-testing protocols, continuous alcohol monitoring technology, and drug testing scheduling. In addition, this bill proposes how the program will be funded. This bill represents an opportunity to model a program that's been in place in South Dakota since 2005. I personally have been involved in the South Dakota program for the past two years, as well as I've been involved in the implementation of the North Dakota Attorney General 24/7 program, which recently started January 1 of this year. I have tendered to the committee a letter from The Honorable Larry Long, the Attorney General of South Dakota, as well as an initial analysis of the 24/7 program. My experience in working with the North Dakota, the South Dakota, and the Nebraska SCRAM pilot program has provided insight into the mechanics of how these programs have transitioned from concept to reality. I'm here to answer any questions the committee may have on the bill, and I urge the committee to consider this innovative approach to addressing the chronic problems that alcohol offenders are encountering in Nebraska. [LB1167]

SENATOR ASHFORD: Thanks, Matt. Any questions of Matt? Seeing none, thank you. [LB1167]

MATTHEW MITCHELL: Okay. [LB1167]

SENATOR ASHFORD: Any other testifiers? Couple more? [LB1167]

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SIMERA REYNOLDS: (Exhibit 4) Chairman and committee members, my name is Simera Reynolds. I'm the state executive director for Mothers Against Drunk Driving. Simera, S-i-m-e-r-a, Reynolds, R-e-y-n-o-l-d-s, and I'm here on behalf of Mothers Against Drunk Driving and our members across the state--and at risk of sounding like an attorney, MADD supports the study. I'm not sure that as the bill is currently written that we would stand in support of the legislation going to the floor, but we absolutely support the study to determine how we can reduce DUI recidivism. Currently, we know in Nebraska that one out of every six arrests that take place in Nebraska is DUI-related. In 2006, adults in Nebraska were more likely than adults nationally to have engaged in alcohol-impaired driving; 4.2 percent compared to 2.5 percent nationally. MADD strongly supports the idea of getting stakeholders together to see where new advancing technologies, such as continuous alcohol monitoring systems, are best employed to serve the public interest and create public safety assurance for the motoring public, and that included interlock ignition technologies. SCRAM relies on generally accepted fuel cell technology, and that's what we would like to see in LB736--to rely on fuel cell technology. This provides for a scientific instrument that can detect ethanol. When there are more than 13,000 individuals arrested for DUI and then there is another 12,000 people arrested for alcohol-related crimes--and we know that one-third of those are high BAC repeat offenders--it is clear that we all have our work cut out for us and that collectively we can work together to drive the numbers down. In an overarching umbrella, MADD supports a comprehensive approach to incorporating all emerging technologies that will strive to keep our community members safe and ensure that offenders are rehabilitated so they do not recidivate. MADD is working hard, on a variety of prongs, through the Campaign to Eliminate Drunk Driving--a worthy goal I think we can all agree on. The 24/7 program may provide yet another tool in the tool box to promote public safety. One concern about the SCRAM instrument, though, is that it does ensure sobriety or can tell if ethanol has been through the skin, but it cannot keep you from driving your car, so a person can drive their motor vehicle. With that said, I would ask that you would strongly support a study so that stakeholders can get together and look at the emerging technologies that are available to us to reduce drunk driving and recidivism. [LB1167]

SENATOR ASHFORD: Any questions of Simera? Thanks, Simera. Senator Karnes. [LB1167]

DAVID KARNES: Mr. Chairman and members of the committee, my name is David Karnes. I am counsel of Vigilnet, Incorporated, which is one of the continuous alcohol monitoring device technology providers working with the State Office of Probation in Nebraska currently. Thank you for holding this hearing on LB1167. This is a piece of legislation that would create a statewide program designed to ensure that DUI offenders with substantial alcohol misuse issues are properly monitored and rehabilitated. The problem is quite drastic. Nationally, over 12,000 people are killed in crashes where at

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least one driver has a blood alcohol level of in excess of .08, each year. In 2006, 70 people were killed in crashes in Nebraska where at least one driver had alcohol that exceeded that limit. These numbers are, of course, unacceptable, and yet they do not tell the entire story. Drunk drivers are an unimaginable pain and suffering on surviving victims, their families, and friends. Nebraska has one of the most comprehensive anti-DUI laws in the country. We take offenders' licenses. We fine them, incarcerate them, and treat them. Still it's not enough. In order to eliminate the problem, we have to address the root cause: alcoholism. Until recently, Nebraska, like every other state, lacked the ability to effectively monitor offenders and verify their rehabilitation. This ended several years ago when Alcohol Monitoring Systems introduced the world's first continuous alcohol monitoring device, which we call SCRAM. The SCRAM bracelet allows us to continuously monitor a wearer's alcohol use 24 hours a day, 7 days a week. The device samples the vapor created when the wearer sweats, every half hour. It is tamper-resistant and detects the vast majority of significant drinking events. Criminal justice professionals have embraced SCRAM. Over 1,500 courts nationwide authorized the use of the SCRAM bracelet, and agencies in 44 states use SCRAM. Over 50,000 offenders have worn SCRAM bracelets, and collectively this has been tested over 100 million times. Over 7,000 people wear our device on any given day. Five states, including Nebraska, have already passed legislation incorporating remote alcohol monitoring. At least ten states will consider continuous alcohol monitoring bills this year. Nebraska's State Probation Department, under the auspices of the Supreme Court Administrator's Office, has implemented a pilot program on continuous alcohol monitoring this year, achieving great success. I think Deb Minardi's letter to the committee will underscore that. We encourage the committee to work in conjunction with the consideration of LB1167 to create a study group to determine how we can create the most effective, most comprehensive statewide 24/7 sobriety program that would facilitate rehabilitation and reduce jail costs and better protect our citizens. We've come a long way since the 1980s when drunk driving was seen as a right of passage. DUI remains a critical problem. We can and should do more. With the modern technology, we can address drunk drivers in a way that we never thought possible previously. We can simultaneously rehabilitate offenders and better protect the citizens of Nebraska. We thank you for your consideration, and I'd be happy to answer any questions. [LB1167]

SENATOR ASHFORD: Any questions of Senator Karnes? Thanks, Dave. [LB1167]

DAVID KARNES: Thank you. [LB1167]

SENATOR ASHFORD: Any other proponents? Opponents? Neutral testifiers? That concludes the hearing on LB1167. I believe Senator Pedersen waived, so we will go to the next bill which is LB1055. Senator McDonald, who has done so much work on this issue, welcome. [LB1167]

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SENATOR McDONALD: Thank you. Senator Ashford and members of the Judiciary Committee, I'm Senator Vickie McDonald, representing the 41st Legislative District. I'm here today to introduce LB1055 which amends the Nebraska's dangerous dog laws. This bill is a direct result of our committee's public hearing last September. It was developed with input and assistance from those who testified at that hearing. The changes in LB1055 are intended to tighten Nebraska's dangerous dog statutes and to stiffen penalties for dog owners who violate the law. In its original form, the bill makes it unlawful for a dog to run at large. This provision is unenforceable in rural areas. And since I was born and raised and still live in the country, I know that we cannot force our rural people to keep dogs in pens or on leashes. Many times people move into the country so that their dogs can be able to have that freedom. Many farmers and ranchers don't confine their dogs, and dogs don't recognize property lines. We have agreed to remove this portion of the bill and have an amendment which I will provide later in my testimony. The statutes currently have different requirements for large counties and medium counties. LB1055 makes the following changes for counties with a population of 80,000 or more. Currently, a dog must be at large and do damage to public or private property before a complaint can be investigated. LB1055 removes the damage requirement. If a dog is at large, the complaint can be investigated. We've added sterilization, seizure, permanent assignment of the dog to a court-approved animal shelter, or humane destruction to the list of reasonable options for disposition of a dog whose owner is convicted of a violation of 54-601 and 54-608. The penalty is increased from a Class V to a Class IV misdemeanor. LB1055 makes the following changes which apply to all counties. Any county may collect a license tax and enforce the tax with appropriate penalties. If the owner doesn't pay the license tax, a county can impound the dog. The amendment I mentioned at the beginning of my testimony also makes it optional for a county to regulate dogs at large. The county may adopt regulations against running at large, and may authorize the destruction, adoption, or disposition of dogs when running at large. The county may impound any dog running at large. The dog owner is required to pay the reasonable amount of impoundment and the penalty. Every county is required to appoint an animal control authority. The bill changes the definitions relating to dangerous dogs in Section 54-617. The definition of animal control authority is expanded to include any local law enforcement agency or other agency designed by a county, city, or village to enforce animal control laws. A dangerous dog is defined as a dog that, (a) has killed or inflicted injury on a human being, (b) has killed a domestic animal without provocation while running at large, (c) has previously been determined to be a potentially dangerous dog and then bites, attacks, or endangers the safety of humans or domestic animals. A domestic animal currently means a cat, dog, or livestock. The definition of livestock has been expanded to include buffalo, deer, antelope, fowl, and other animals in zoos, wildlife parks, refuges, wildlife areas, or nature centers intended to be on exhibit. A potentially dangerous dog is defined as a dog that injures a domestic animal when unprovoked, chases or approaches a person in a menacing fashion or apparent attitude of attack, or (c) any dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to

threaten the safety of humans and domestic animals. Under current law, a dangerous dog must inflict a severe injury which is defined as an injury resulting in disfiguring, lacerations requiring multiple sutures or cosmetic surgery, or one or more broken bones, or that creates a potential danger to the life or health of the victim. Currently, law sets the injury requirements at a level that is too high and does not protect the public. LB1055 removes the severe injury requirement. Now, if a dog attacks and injures a human, the dog is potentially dangerous or dangerous depending on the individual circumstances. There is protection for the dog if the person is committing willful trespass or other tort on the property of the dog's owners if the person is tormenting, abusing, or assaulting the dog, or has done so in the past, or if the person is committing or attempting to commit a crime. LB1055 sets the following new requirements for dangerous dogs. A dog must be spayed or neutered within 30 days of declaration as a dangerous dog. The dog must be implanted with a microchip identification number within 30 days of declaration as a dangerous dog. These procedures must be carried out by a licensed veterinarian and paid by the dog owner. The dog owner must provide written proof of both procedures and the microchip ID number to the animal control authority. Dangerous dogs cannot be taken to another county, city, or village except for reasonable veterinarian purposes. We've created a process that may allow a dangerous dog to move from one city to another if the dog's owner is relocating permanently. The owner must obtain written permission from the animal control authority of current residence and the animal control authority in the new permanent location. Any city, county, or village which already has ordinances against relocation can't grant permission. A dangerous dog declaration can't be rescinded. This bill requires a dangerous dog to be confined to protect the public from injury. The statutes already contain minimal standards for the open door, pen, or structure. We've added the following requirements. The sides of the pen or structure must be buried in the ground in the depth of at least 1 foot. The pen or structure must meet the adequate space requirements used by commercial breeders, found in Section 54-640(6). The pen or structure must be at least 10 feet from any property line. Warning signs must be posted and visible for all areas of public access. The warning signs must be no less than 10 inches by 12 inches, and contain the words "warning" and "dangerous animal" in high-contrast letters that are at least 3 inches high on black background. Persons convicted of a violation of the dangerous dog laws will not be allowed to own a dangerous dog for 10 years after that conviction. A person who violates the prohibition against owning a dangerous dog will be guilty of a Class IIIA misdemeanor. The dangerous dog will be confiscated and humanely destroyed. The bill requires every county to designate an animal control authority to enforce the state's dangerous dog laws and a local ordinance or laws adopted by the county. Earlier, I mentioned that I had an amendment that does several things. (Exhibit 6) It removes the statewide running at-large prohibition because it's unenforceable in rural Nebraska. It gives animal control authorities some discretion about whether to file a complaint in county court. It adds a requirement for an appeals process to be included when counties adopt regulations governing dangerous dogs. It clarifies that the dog owner is responsible for the costs of the mandatory neuter, spay,

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and microchipping. The changes to this amendment are supported by the groups that have worked on the bill. I also have a separate amendment that I'm providing to the committee at the request of the American Society for the Prevention of Cruelty to Animals. (Exhibit 7) This amendment says that no county, city, or village shall adopt any ordinance or resolution to control or regulate dogs that is breed-specific. I leave it up to your good judgment on whether to incorporate the ASPCA's amendment. I have worked very hard on this bill to bring all the parties together. And I know that the difficult thing is that when I found (inaudible) the dangerous dog legislation is that I think our cities do a very good job with the dangerous dogs because they do have people that monitor those things. But in rural Nebraska it used to be rural landowners, farmers, and you sent Shep out to get the cattle and bring them back in. And let me tell you, I've watched it happen: The cows come in to get milked. It's not like that any more in rural Nebraska. We have many farmers that have left the farm and rent out their facilities to various people, and those dogs that come with those people are not able to be monitored, because in rural Nebraska we do not have the ordinances that you have in town and so it's been very difficult to bring someone in rural Nebraska to monitor these things. And they look at our dog laws and they find that they really don't have enough teeth in them for rural Nebraskans. So this is what I'm trying to do, is making sure that rural Nebraska, people that live in rural Nebraska have the protection that you have in your cities. So with that, I encourage you to look at the amendment and move this bill on to General File. [LB1055]

SENATOR ASHFORD: Yes, Senator Schimek. Before I'm going to...Senator McGill is here, also from Lincoln. She stepped in while we were...so with that, Senator Schimek. [LB1055]

SENATOR SCHIMEK: Thank you, Mr. Chairman. Senator McDonald, I thank you for working on this legislation, and I know that you got a copy of the letter that I think the Chair the committee got from the city of Lincoln, (Exhibit 5) and they had several concerns but probably the major one is the fact that they're not sure exactly what subdivisions are included in this legislation, and the fact that being a city of the primary class they have the ability to make those ordinances and govern that themselves. And you don't even have to necessarily answer right now, but I know that they do have some concerns, and I don't know if you've had a chance to study their letter yet. [LB1055]

SENATOR McDONALD: You know, I did see their letter. I am very glad to work with them because, like I said, my concerns are basically for rural Nebraska. [LB1055]

SENATOR SCHIMEK: Right. [LB1055]

SENATOR McDONALD: Not necessarily for the people that live in cities, because they have protections through their dog ordinances and the humane societies that take care of that and regulate that, but what we don't have is in rural Nebraska. So I would be very glad to work with any city that has a concern about that because that's not really the

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focus of my bill. [LB1055]

SENATOR SCHIMEK: And we actually have, I understand from reading this letter, an ordinance that's stiffer than the one that you are proposing in here, so I will pass that along to the city of Lincoln. [LB1055]

SENATOR McDONALD: And if necessary I'm sure that we can add the wording that if they have a stiffer regulation in their city ordinance, that that would be acceptable, but we just need some minimum standards that are stricter than what we have for our rural communities. [LB1055]

SENATOR ASHFORD: Any other questions? Thank you, Vickie. Any other...? How many testifiers do we have here on this bill? Okay. First proponent. And when we get done, I need your autograph, after that amazing dog-saving... [LB1055]

MARK LANGAN: It was the highlight of my animal control career. Thank you very much. [LB1055]

SENATOR ASHFORD: I mean, you were on...it was so encouraging, I might say, that when you're running in the morning on the treadmill, which I hate to do, instead of listening to those talking heads, there you were saving a dog out of the Missouri...the Platte... [LB1055]

MARK LANGAN: The Platte. [LB1055]

SENATOR ASHFORD: The Platte River. [LB1055]

MARK LANGAN: And I'm just...I'm glad I didn't fall in. That's the only thing I have to say about it. [LB1055]

SENATOR LATHROP: And on the Today show. [LB1055]

SENATOR ASHFORD: It did... [LB1055]

MARK LANGAN: What's that? [LB1055]

SENATOR LATHROP: And on the Today show. [LB1055]

MARK LANGAN: Oh, everywhere. [LB1055]

SENATOR ASHFORD: And the Today show. And it did look like you were going to fall in, because you had your cell phone in one...how did you do that? That was...? [LB1055]

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MARK LANGAN: Well, actually Kristie, who is right there, had the rope that was around me, so she was going to keep me from going in the water, and I trust her with my life. So she did a good job on that. [LB1055]

SENATOR ASHFORD: It was an amazing thing. [LB1055]

MARK LANGAN: Well, thank you. [LB1055]

SENATOR ASHFORD: Okay. [LB1055]

MARK LANGAN: And it was a great dog. We were very happy we could do that, so thank you very much. [LB1055]

SENATOR ASHFORD: Yes. Well, thank you. [LB1055]

MARK LANGAN: Shall I start? [LB1055]

SENATOR ASHFORD: Go ahead. [LB1055]

MARK LANGAN: (Exhibit 8) Okay. Well, thank you very much for that great introduction. I appreciate it. My name is Mark Langan and I'm the vice president of field operations for the Nebraska Humane Society. We provide animal control service in the Omaha area and Sarpy County, but routinely provide assistance and advice throughout Nebraska. I want to thank Senator McDonald for allowing me to testify, both at the interim study in September and here today, supporting LB1055, which deals with dangerous dogs. During my testimony in September, I pointed out several areas that needed improvement in the existing Nebraska state statutes dealing with dangerous dogs, and I am very pleased to see that many of these suggestions are incorporated into LB1055, such as--and I'm going to summarize these because Senator McDonald did a great job of going over them also--mandatory spaying and neutering of dogs declared dangerous; microchipping of the dogs; making it illegal to transport a judiciously declared dangerous dog into another Nebraska jurisdiction; warning signs on the owner's property which are very important--that's a big deterrent to people who are scared of dogs--the warning signs keep them from going up to the house; specific directives regarding the size and structure of the kennels; but most importantly, LB1055 actually makes it illegal for a person to keep or harbor a dangerous dog unless the dog is properly confined so as to protect the public from injury. Senator McDonald and her staff have been great to work with and have made changes to the bill as late as yesterday based on our recommendations. Yesterday, an amendment to LB1055 was drafted that would prohibit cities or counties from drafting breed-specific legislation, the most common type being pit bull bans. The Nebraska Humane Society supports this amendment. Breed-specific legislation has not worked around the country. Thank you,

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Senator McDonald, for taking the lead on making the dangerous dog laws for the state of Nebraska much more practical. Dangerous dogs are a public safety issue that are often overlooked and ignored until someone is severely injured. Thank you for this opportunity and I can answer any questions anybody might have. [LB1055]

SENATOR ASHFORD: Any questions of Mark? Yes, Senator Lathrop. [LB1055]

SENATOR LATHROP: Can I ask why we would...what your thoughts are on why we would pass a law that says nobody can pass an ordinance on breed-specific? [LB1055]

MARK LANGAN: That was not proposed... [LB1055]

SENATOR LATHROP: I think pit bulls are...I've got to be with the people that think those things ought to be not permitted in cities--and tell me why that's a bad idea. [LB1055]

MARK LANGAN: Cities that have done it across the country--and I've read studies on this and talked to people in the cities that have enacted pit bull bans--have told me that pit bull bans do not prohibit pit bulls from remaining in the city. One, the owners keep them underground where they can't be found, bring them out at night, things like that. In the city of Omaha there's over 1,000 licensed pit bull owners--owners that have licensed their pit bulls. So I would think if those people have gone to the extent of licensing their dogs, they're probably pretty responsible dog owners, because we only get about 30-40 percent compliance rate on dog licenses anyway. So you're talking about over 1,000 people that, if we ban pit bulls, are going to, such as in Denver, Colorado, were forced to give up their dogs. Animal control, along with the police, went from house to house to house of licensed pit bulls, and said, give me your dog. We really don't want to be put in that position, because there's a lot of...and being a former police officer, I have to admit I've totally changed my tune 180 degrees because I came up against a lot of bad pit bulls on drug raids and things like that. But being out at the Nebraska Humane Society, I can tell you, for sure, that there are a lot of responsible pit bull owners with a lot of responsible pit bulls, and that the dogs that we run into problems with are the ones that have irresponsible owners who don't license the dogs, don't spay and neuter the dogs, don't take proper care of the dogs, allow the dogs to get loose, and things like that. So it's more of an owner issue. And I'll also say this too, that if we ban pit bulls, where do we stop it? If it's a public safety issue, where do we stop? Do we go after Cane Corsos which are now becoming more prevalent in Omaha? German shepherds, which are always ranked really high on bites? Labrador retrievers? I own a Lab. Labrador retrievers are always very high on bites. So it's not a black and white issue; it's a grey issue. [LB1055]

SENATOR LATHROP: But why would we say that the city of Hastings can't do it? [LB1055]

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MARK LANGAN: Well, that was actually proposed... [LB1055]

SENATOR LATHROP: Can't we just let them make that decision for themselves every time they want to consider that ordinance? [LB1055]

MARK LANGAN: Well, and that would be your prerogative. We're just simply stating that this amendment that was proposed yesterday by the ASPCA, Society for the Prevention of Cruelty to Animals...well, I found out about it about 5:00 yesterday afternoon, the amendment. And after reading it--and our stance at the Humane Society is that we're against breed-specific legislation--we're just simply stating that we would be for that amendment. [LB1055]

SENATOR LATHROP: Okay. [LB1055]

MARK LANGAN: It's not vital...I don't think it's vital to the bill. I'm not speaking for Senator McDonald. But speaking for myself, it's not vital to the bill but we would not oppose it if you folks would enact it. [LB1055]

SENATOR LATHROP: Okay. Thanks for the answer. [LB1055]

MARK LANGAN: I hope I answered your question. Yes, Senator. [LB1055]

SENATOR CHAMBERS: Mr. Langan, pit bulls are not the only dogs that fight, isn't that true? [LB1055]

MARK LANGAN: Well, in organized dog fights, in the investigations that we've done in the three years that I've been there, we have not had any other dogs besides pit bulls come up in dog fighting investigations. [LB1055]

SENATOR CHAMBERS: But other dogs can be trained to fight. [LB1055]

MARK LANGAN: I suppose they could, but I have to be fair to that answer that we have never come across another dog in the investigations that we've done that has been actively fought at an organized dog fight besides the pit bull. [LB1055]

SENATOR CHAMBERS: Now, if you ban pit bulls--and there are people who like to fight dogs--other dogs can be used in place of the pit bulls. [LB1055]

MARK LANGAN: Most definitely. You bet. Most definitely. [LB1055]

SENATOR CHAMBERS: And if people are going to fight dogs, they'll find other dogs to do it with. Pit bulls might be handy, but pit bulls can also be handled in a such a way

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that they are gentle. They are protective of and towards children and others, and they become, by and large, what people turn them into. [LB1055]

MARK LANGAN: The shelter dog out at the Nebraska Humane Society, the kind of mascot of our Humane Society, is a probably 120-pound pit bull... [LB1055]

SENATOR CHAMBERS: One hundred twenty pounds? [LB1055]

MARK LANGAN: Probably 120 pounds, I would guess. Huge. [LB1055]

SENATOR CHAMBERS: Are you sure it's a pit bull? [LB1055]

MARK LANGAN: Well, probably because we give it too many treats is probably why it's 120 pounds. [LB1055]

SENATOR CHAMBERS: Oh, okay. (Laugh) [LB1055]

MARK LANGAN: But that's our...that's the dog that we use for temperament tests to see how other dogs react to this dog. Just a fantastic dog. [LB1055]

SENATOR CHAMBERS: If there be banning of dogs based on their breed, then I would support banning every dog other than toy poodles. (Laughter) [LB1055]

MARK LANGAN: They can be nippers though; those toy poodles can be nippers. [LB1055]

SENATOR CHAMBERS: I know. [LB1055]

MARK LANGAN: Any other questions? [LB1055]

SENATOR ASHFORD: Those little poodles. Thanks. [LB1055]

MARK LANGAN: Okay, thank you. [LB1055]

SENATOR ASHFORD: What did you...? What did you think about the beagle winning the...? [LB1055]

MARK LANGAN: Well, a great looking dog, isn't it? Just a fantastic looking dog. First time a beagle has ever won. [LB1055]

SENATOR ASHFORD: I mean, that's the first time a beagle has ever won the Westminster... [LB1055]

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MARK LANGAN: And you could tell he was quite proud of himself, couldn't you?  
[LB1055]

SENATOR ASHFORD: Yeah, he was bellowing. [LB1055]

MARK LANGAN: Thank you. [LB1055]

SENATOR ASHFORD: Thanks. [LB1055]

ROBERT DOWNEY: (Exhibit 9) My name is Robert Downey, Bob Downey. I'm the executive director of Capital Humane Society here in Lincoln, Nebraska. Senator Ashford and distinguished members of the Judiciary Committee, I'm testifying in favor of LB1055. The irresponsible handling of dogs across this country has resulted in greater consideration of breed bans and exclusion of certain breeds of dogs by insurance companies. This approach of dealing with the issue is less than ideal and punishes the responsible handlers of these breeds and the dogs themselves. The best approach is to have laws related to dangerous dogs and their owners which can be applied across the board. LB1055 further strengthens existing law and provides enforcers of the law effective tools to work with. Some of the key improvements are mandating sterilization of the dog and microchipping it for further positive identification. Requiring the owner to communicate with enforcement officials to be able to move the dog from one jurisdiction to another is an important step to ensure the owner is meeting all requirements of keeping the dog in the new jurisdiction. Strengthening the penalties for offenders and finally mandating that if a dog is ordered to be destroyed, it must be destroyed in a humane manner. I have looked at the American Kennel Club's Web site yesterday, and pulled off--and you have a copy of it--their position on breed bans and on dangerous dogs. The American Kennel Club supports reasonable, enforceable, nondiscriminatory laws to govern the ownership of dogs. The AKC believes that dog owners should be responsible for their dogs. We support laws that establish a fair process by which specific dogs are identified as dangerous based on stated measurable actions, impose appropriate penalties on irresponsible owners, and establish a well-defined method for dealing with dogs proven to be dangerous. We believe that, if necessary, dogs proven to be dangerous may need to be humanely destroyed. The American Kennel Club strongly opposes any legislation that determines a dog to be dangerous based on breed-specific or phenotypic classes of dogs. One of the challenges when pit bulls are banned in communities is the identification of the breed itself. There is great confusion even among animal control workers, shelter workers across the country, as to what a pit bull is--and so many mixes get pulled into the category too. And as far as the beagle goes, my boxer threw up when he saw that, so...(laugh). [LB1055]

SENATOR ASHFORD: It seemed like an upset to me. (Laughter) Very well. Any questions? Yes, Senator Lathrop. [LB1055]

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SENATOR LATHROP: You know, I'm going to wander into this if I can. Some dogs are bred to...they have it in their nature to point, like a German shorthair or an English pointer. Am I right? [LB1055]

ROBERT DOWNEY: Yes. [LB1055]

SENATOR LATHROP: And some dogs chase rabbits. Some dogs dig holes and go after critters that live in the earth. And do the pit bulls, do they have as part of their nature, the instinct to fight? [LB1055]

ROBERT DOWNEY: Well, they are a member of the terrier breed, and in the terrier background there's a lot of that. And there are a lot of terriers that aren't pit bull terriers, such as rat terriers, fox terriers, Jack Russell terriers, who are other-animal aggressive and are bred for those purposes. Certainly that can be bred into pit bulls by choosing parentage, but it can also be bred out of pit bulls by choosing parentage, too. We do not see the pit bull problem in Lincoln, Nebraska, that Omaha, Nebraska, unfortunately sees; however, I will say I'm confident there are over 1,000 licensed pit bulls in the city of Lincoln, Nebraska, too. And again I would underscore what Mark is saying: Those are people who are acting in a responsible manner and they should not be punished for doing so. Senator Chambers was talking about other breeds fighting. I have friends who are investigators with both the ASPCA and the Humane Society of the United States, who have found Dobermans, Rottweilers, and other breeds being used in organized dog fighting. [LB1055]

SENATOR LATHROP: Okay. Here's my concern though. What if--and I'm going to say Hastings for no particular reason; it could be Fort Calhoun. But if Fort Calhoun wants to have an ordinance that says no fighting dogs may reside inside the city limits, and there's two pit bulls, and couldn't those people come in and say you've just violated state law by banning by dog if we pass this? Because it can, in practice, become a breed-specific problem if they're the only... [LB1055]

ROBERT DOWNEY: No. If they have been--and correct me if I'm misunderstanding the questions--but if they have been proven to be using those animals for fighting purposes, there are plenty of statutes on the book that allow municipalities to deal with that particular issue. [LB1055]

SENATOR LATHROP: And my concern isn't to pass a ban on pit bulls, but to take away somebody else's option to...last year, we dealt with wolf dogs. [LB1055]

ROBERT DOWNEY: Yes. [LB1055]

SENATOR LATHROP: Created a mountain of e-mails in response. I didn't know there were that many of them around. But a particular community may have a problem with a

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dog that is, by its very nature, half wild animal, right? [LB1055]

ROBERT DOWNEY: They do. And I do understand probably why some communities choose to pursue that, but the Capital Humane Society as an organization, and I think you would find the overwhelming majority of animal control and humane organizations across the country, oppose breed-specific bans. [LB1055]

SENATOR LATHROP: Okay. Thanks. [LB1055]

ROBERT DOWNEY: You're welcome. [LB1055]

SENATOR ASHFORD: Thank you, sir. Next proponent. How many proponents do we have? Do we have any opponents? Okay, Don. [LB1055]

DON WESELY: (Exhibit 10) Mr. Chairman, members of the Judiciary Committee, I'm Don Wesely and I represent The Humane Society of the United States. I'm passing out a presentation from The Humane Society of the United States. While that's being passed out, let me tell you that I personally was involved in this issue for quite some years, and Senator Chambers and I were involved with the dog fighting legislation back about 20 years ago, about '87, '88, and made it a felony for dog fighting at that time. Did a lot to head off that problem. And I remember the pit bull issue, because while I was out of the office one day, a gentleman who didn't like the bill that we had, brought in a pit bull and wanted to show it to me and see how nice it was. He said "mostly" unless he tells him otherwise, and (laugh) we didn't want to find out that "otherwise." So this issue has been around. We've made some progress with previous legislation, and this is another step forward. And I want to commend Senator McDonald and her staff, Mikki McCann, who's worked so hard on this, and I think they've done an excellent job. Let me just now take a minute to read this statement from The Humane Society of the United States, from Adam Goldfarb, who is the issue specialist for The Humane Society of the United States, the nation's largest animal protection organization with over 10 million members and constituents. "On behalf of the more than 46,000 members and constituents who reside in Nebraska, I'm submitting testimony to support LB1055, sponsored by Senator McDonald, to strengthen the requirements for dangerous dogs, create penalties for dogs running at large"--and I know that part is being taken out--"and to provide powers and duties for counties throughout the state. The most important piece of this legislation requires dangerous dogs to be sterilized and microchipped. Even though such provisions are rare at the state level, there are countless counties, cities, and townships that mandate sterilization and microchip identification for dangerous dogs. These provisions give both the courts and law enforcement officers more tools to help control dangerous dogs in their communities. In 2001, representatives from the Centers for Disease Control, the American Veterinarian Medical Association, the American Medical Association, The Humane Society of the United States, and several other organizations completed a study on canine aggression

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and human canine interactions called 'A Community Approach to Dog Bite Prevention.' This study revealed that over 70 percent of dogs involved in biting incidents are male dogs who have not been neutered. This is, by far, the biggest dog bit statistic. The microchip component is also important for the purpose of tracking dangerous dogs. Dogfighters tend to have multiple dogs, sometimes at multiple locations. They can move dogs around so that animal control is unable to keep track of them. Because they're always buying, selling, breeding, training dogs, etcetera, it's easy for an animal control officer to lose track of one dog. Microchips allow enforcement officers to quickly and easily identify which animals have been declared dangerous. Again, we thank Senator McDonald for introducing the bill and urge the Nebraska lawmakers to pass this important human legislation." Thank you. [LB1055]

SENATOR ASHFORD: Any questions of Don? Thanks, Don. [LB1055]

DON WESELY: Thank you. [LB1055]

SCOTT TINGELHOFF: Good afternoon, senators. My name is Scott Tingelhoff. I'm the Saunders County attorney and I'm here on behalf of the Saunders County Attorneys Association, and I'm also on the board of directors of the Saunders County Lost Pets Humane Society. First, I'd like to thank Senator McDonald and Mikki McCann for the many hours and effort they've put into this bill. And we, the County Attorneys Association, would support this bill as amended. We do find that it does assist the prosecutors in certain areas. It helps clarify what a dangerous dog is, and it does add some restrictions that will help us in protecting the public with the dangerous dogs. The thing that I'm excited about personally is, it does give us more opportunities and flexibility if there are dogs at large and the counties do want to regulate them, is it clearly allows us to put these pets up for adoption. It's not the animal's fault 99 percent of the time--it's typically the owner, we get bad owners--and it allows us to find a good owner for these animals rather than having them destroyed. It also takes advantage of the new technology that's out there, such as the microchipping that allows those types of things to be implemented. But once again we would support the bill as amended, and we thank Senator McDonald for her efforts. [LB1055]

SENATOR ASHFORD: Okay. Thanks, Scott. Any questions of Scott? Senator Chambers. [LB1055]

SENATOR CHAMBERS: Not a question, just a comment. Mr. Tingelhoff, I'm glad to be able to put a face to the voice, because we've had several conversations. [LB1055]

SCOTT TINGELHOFF: Yes, nice to do that. [LB1055]

SENATOR CHAMBERS: They were always productive and I'm glad you're here today. [LB1055]

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SCOTT TINGELHOFF: Good to hear; good to hear. Thanks. [LB1055]

SENATOR ASHFORD: Thanks, Scott. [LB1055]

SCOTT TINGELHOFF: Thank you. [LB1055]

SENATOR ASHFORD: Thank you. Next proponent. [LB1055]

LARRY WILLIAMS: (Exhibit 11) Good afternoon, Senator Ashford and members of the committee. My name is Larry Williams. I'm a veterinarian, retired; I live here in Lincoln. I am currently chair of the Nebraska Veterinary Medical Association legislative committee, and it's on their behalf that I'm here to offer testimony today. I can be very brief. Just a few general statements regarding our veterinary association. We are in general agreement with these changes and we appreciate Senator McDonald introducing this bill. As an animal healthcare profession, we are deeply concerned with the welfare of animals. This concern is expressly stated in The Veterinarian's Oath and the animal welfare policies stated in numerous professional documents which guide our profession. The bill, we believe, conforms with the senator's statement of intent, adding the definitions for mutilation, repeated beating, torture, and clarifying the meanings of serious injury, and giving counties of all classes the discretionary language for which they may regulate dogs at large. Initially, some of our members were concerned with the wording. They were afraid that, Shep, the clinic dog, was going to be confiscated. But those concerns have been alleviated by the proposed amendments offered by Senator McDonald, and with those amendments our testimony is in full support of LB1055 and we would urge its movement from committee. [LB1055]

SENATOR ASHFORD: Thanks, Dr. Williams [LB1055]

LARRY WILLIAMS: I'd be happy to answer questions if there are any. [LB1055]

SENATOR ASHFORD: Any questions of Dr. Williams? Seeing none, thank you, sir. [LB1055]

LARRY WILLIAMS: Thank you. [LB1055]

SENATOR ASHFORD: Any other proponents? Opponents? Neutral? Senator McDonald. [LB1055]

SENATOR McDONALD: Mr. Ashford and members of the committee, this issue is very personal with me. As I testified in the interim hearing, it's concerning my family, dealing with a dangerous dog. And I think that my concern, like I said, is in rural Nebraska. I think our cities do a great job, but we need to make sure that we have laws that our law

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enforcement can refer to when there are situations that they need to be involved in. Looking at the breed-specific, that is an amendment that was not my amendment. That was brought to me by the ASPCA, and if that's a desire of the committee to put that into my bill, that's up to the committee. And I think the reason that it's not breed-specific, because how do you know if that pit bull is 100 percent pit bull? You probably would be able to tell it, but if it's a 25 percent pit bull, 10 percent pit bull, you know, how are you going to know whether you could say that is a pit bull or it's not a pit bull? And I think that's the hard part, because many dogs are a variety of dogs and there is no way of knowing what breed that dog is. So hopefully we can work out some issue with the city of Lincoln. Today, this letter was the first time I saw it. We've been working on this issue since September. Didn't realize they had concerns, and we will certainly work with them to move this forward. [LB1055]

SENATOR ASHFORD: (Also Exhibit 35) Thank you, Vickie. Any questions of Senator McDonald? Thank you. All right, that concludes the hearing. LB1042: Senator Howard. How many LB1042 testifiers do we have, generally? Okay. How many proponents and how many opponents? Proponents? Okay. Senator Howard. [LB1055]

SENATOR HOWARD: Thank you. [LB1042]

SENATOR ASHFORD: Welcome. [LB1042]

SENATOR HOWARD: We were into a hot issue in Health and Human Services and so I'm still thinking that. [LB1042]

SENATOR ASHFORD: Okay. Well, do you need some downtime or...? (Laughter) [LB1042]

SENATOR HOWARD: Well, actually...(laugh) [LB1042]

SENATOR ASHFORD: Okay. All right. LB1042. [LB1042]

SENATOR HOWARD: (Exhibit 13) Thank you, Senator Ashford and members of the Judiciary Committee. I am Senator Gwen Howard, representing the 9th Legislative District, and I am bringing LB1042 to you for your consideration. The purpose of LB1042 is to take a realistic approach to the growing problem of ticket scalpers, also known as secondary ticket marketers, charging Nebraska consumers in excess of face value to entertainment events across the state. I want to clarify that this piece of legislation is not strictly an attempt to address the problems that surfaced with the recent Hannah Montana concert. The problems that Nebraska citizens have encountered with ticket scalpers artificially creating a demand and gouging the consumer has been going on for years, and the Hannah Montana concert in Omaha simply focused a bright light on how bad the problem has become. Since the press coverage surrounding that event, my

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office has heard from many consumers of entertainment and sporting events who are appreciative that the Legislature is addressing this growing problem. I believe that all Nebraskans deserve an equal opportunity to purchase tickets to an entertainment event in this state without having to compete with individuals or companies that purchase tickets only for the purpose of resale. These particular companies often hire "diggers"--and that's in quotes--"diggers" to purchase the maximum number of tickets allowed and then immediately turn around and offer them to the public at several hundred times the box price on the ticket. Recently it has been discovered that one company is using a mixture of sophisticated computer software and cheap labor in India to purchase large quantities of tickets to concerts in the United States. LB1042 will provide a deterrent for ticket scalpers to continue this activity. I'm going to defer to the lobbyist for TixCap, Inc., to inform this committee about the specific details of LB1042 and the amendment to the bill, but in general terms I will tell you that this piece of legislation will allow the entertainment industry to self-regulate the problem of ticket scalping by giving artists, promoters, and producers of entertainment events in Nebraska the tools they need to fight back against the ticket scalpers. It is not my intent with this legislation to go after the individual taxpayer who purchases the ticket with the intent to go to the event but then, for one reason or another, can't go, and he sells them to someone else and maybe he makes a few dollars' profit. The intent of LB1042 is to address those individuals or companies who purchase a large number of tickets to entertainment events for the sole purpose of resale and, in some cases, hundreds of times the box office price. Several people and organizations have raised concerns relative to the language of this bill, and I am more than willing to work with this committee on these issues to reach a compromise that will benefit the citizens of Nebraska, our taxpayers who are paying for our civic centers, such as the Qwest Center, and will allow more tickets to go into the hands of the general public at a reasonable price. I want to thank you, Chairman Ashford and members of the Judiciary Committee, for your consideration of LB1042, and I request that, after hearing all the information, you send this to General File. [LB1042]

SENATOR ASHFORD: Any questions of Senator Howard? Yes, Senator Chambers. [LB1042]

SENATOR CHAMBERS: Senator Howard, I know you didn't draft this bill, did you? [LB1042]

SENATOR HOWARD: I wish I could say I have that capability. (Laugh) [LB1042]

SENATOR CHAMBERS: I'm glad you don't. This is one of the worst pieces of legislation I have ever encountered since I've been in the Legislature. It creates a system of subpoenas; civil action; penalty piled on top of penalty; talking about actual or liquidated damages not less than \$750 and not more than \$10,000 for each violation. Each ticket transaction constitutes a separate violation, so if I scalp ten tickets I could be facing a

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\$100,000 fine. This is such grossly disproportionate nonsense that I will see to it personally that it dies, and I want the people who are here to know that. It is an insult--not from you--for whoever drafted this to think that a legislator is going to accept something like this and put it into the statutes. This is atrocious and I'm prepared to sit here and listen to them to explain why it is not so. Is the one who drafted this bill here? [LB1042]

SENATOR HOWARD: I don't know if the bill drafter is here, but if I could add... [LB1042]

SENATOR CHAMBERS: Yes, feel free. [LB1042]

SENATOR HOWARD: There is an amendment that's been put on this bill. I hope you have a copy of it. [LB1042]

SENATOR CHAMBERS: Does it say kill it? (Laughter) [LB1042]

SENATOR HOWARD: (Laugh) Well, no, it does not say kill it. But what...if I could... [LB1042]

SENATOR CHAMBERS: Sure. [LB1042]

SENATOR HOWARD: The amendment simply limits the recourse to the performer or the person who is directly involved. It takes out the penalty. It takes out the legal action. It does change the bill, so if that's a help. [LB1042]

SENATOR CHAMBERS: The performer? Now the performer has an arrangement with whatever venue will accommodate that performer. Is that true? [LB1042]

SENATOR HOWARD: I think there are other people that can answer what that arrangement is. I don't know. I don't know. But... [LB1042]

SENATOR CHAMBERS: What difference would it make to the performer how much the...who buys or sells the tickets? Does the performer get a cut? [LB1042]

SENATOR HOWARD: Of the... [LB1042]

SENATOR CHAMBERS: And the cut is lessened because tickets are scalped? [LB1042]

SENATOR HOWARD: Well, it's my understanding, and this is purely my understanding, is that the performers are having, in some cases, their reputation damaged by having these tickets absorbed and then resold to the public for grossly inflated prices which they have no control over. [LB1042]

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SENATOR CHAMBERS: Why is it something the Legislature should be interested in or concerned about? [LB1042]

SENATOR HOWARD: Well, one of the big issues, at least as far as I'm concerned, is that we get absolutely no revenue from those tickets that are resold for very high amounts of money. [LB1042]

SENATOR CHAMBERS: Isn't that a part of American entrepreneurship, to find a way to make money without having to pay taxes? [LB1042]

SENATOR HOWARD: It possibly is, but for some reason that seems contrary to what we try to address down here, and so I tried to bring it in. [LB1042]

SENATOR CHAMBERS: Are there companies that will set up their operations off the shores of this country so that they don't have to pay taxes? [LB1042]

SENATOR HOWARD: I would guess that's the case. I think in this instance certainly there's companies that are located offshore from the United States that are making a profit off of these tickets. [LB1042]

SENATOR CHAMBERS: This...if this bill were not passed, who is going to be harmed? [LB1042]

SENATOR HOWARD: If this bill were not passed who would be harmed? [LB1042]

SENATOR CHAMBERS: Yes. In whose interest is this bill? [LB1042]

SENATOR HOWARD: Well, I'd like to think it's in the interest of the people that like to attend the events. That was... [LB1042]

SENATOR CHAMBERS: But the ones who are here are from the entertainment industry, as you described it. Correct? [LB1042]

SENATOR HOWARD: I don't know everyone that's here to testify, but I'm sure there are people from the entertainment industry. [LB1042]

SENATOR CHAMBERS: Well, the ones who wanted the bill are from the entertainment industry. Is that correct? [LB1042]

SENATOR HOWARD: Well, actually I got into this myself this summer, and I had received a number of calls and e-mails from parents who were very concerned that ticket prices were so expensive to an event; that there was such a gross inflation of

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ticket prices. So that's how it started. [LB1042]

SENATOR CHAMBERS: Well, if they had the money to pay for the ticket, why can't it be a situation where you charge all that traffic will bear? [LB1042]

SENATOR HOWARD: You know, I guess that's what we have to look at. [LB1042]

SENATOR CHAMBERS: Do we limit the amount that a used car can be sold for? [LB1042]

SENATOR HOWARD: Not that I know of. [LB1042]

SENATOR CHAMBERS: If there were to be somebody who wants to corner the market on all used Hondas, should we pass a law and say that cannot be because that person will probably charge more for those used Hondas than anybody else? [LB1042]

SENATOR HOWARD: I wouldn't say we should. [LB1042]

SENATOR CHAMBERS: There are instances probably throughout this society where an object or a product is sold; others purchase it and sell it for more than they purchased it for. Is that correct? [LB1042]

SENATOR HOWARD: I would say, yeah, that's probably true. [LB1042]

SENATOR CHAMBERS: That's how they make money. Have you seen these advertisements on television, late at night? You probably aren't up that late. [LB1042]

SENATOR HOWARD: I'm not. [LB1042]

SENATOR CHAMBERS: And they say we have a warehouse and we will arrange for you to pay us so much for this--they don't call it junk--but for this item, and then you can sell it for up to three times what you paid for it. Now we're not talking about doing anything about that, are we? [LB1042]

SENATOR HOWARD: No. I don't quite even know what that is. [LB1042]

SENATOR CHAMBERS: Well, they're little trinkets, little statuettes and things like that. [LB1042]

SENATOR HOWARD: Oh. Porcelain dolls? [LB1042]

SENATOR CHAMBERS: You buy it for \$10, then you sell it to somebody else for \$30. If somebody is willing to pay \$30 for a \$10 piece of junk, should the Legislature prohibit

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that from taking place? [LB1042]

SENATOR HOWARD: You know, I wouldn't say that we should, but I'd like to get some tax revenue off of it. [LB1042]

SENATOR CHAMBERS: You've heard of "let the buyer beware." [LB1042]

SENATOR HOWARD: Sure. [LB1042]

SENATOR CHAMBERS: Should we limit the amount of money that a jeweler can mark up an item? Should we limit the amount of markup on jewelry? [LB1042]

SENATOR HOWARD: I don't think we'd have much success, but I hope the jeweler pays us some tax. [LB1042]

SENATOR CHAMBERS: But should we limit or prohibit a markup above a certain amount; and should the jeweler do that, it's a crime? Should we do that? [LB1042]

SENATOR HOWARD: Not unless maybe it's stolen goods. [LB1042]

SENATOR CHAMBERS: We know how much jewelry is marked up, though, don't we, because around certain holidays and other times they'll say 60 percent off, and they're still going to make a profit. [LB1042]

SENATOR HOWARD: I've seen that. [LB1042]

SENATOR CHAMBERS: So why should we do this for one particular industry when we're not going to do it for everybody? [LB1042]

SENATOR HOWARD: Well, you raise very valid questions, and hopefully some of the people that are going to testify have some additional information. [LB1042]

SENATOR CHAMBERS: Have you seen some of the trashy acts that are palmed off as entertainment for which people are willing to pay a large amount of money to attend? [LB1042]

SENATOR HOWARD: Trashy ads? [LB1042]

SENATOR CHAMBERS: Near-naked women, bad language? [LB1042]

SENATOR HOWARD: (Laugh) I don't really go to those. [LB1042]

SENATOR CHAMBERS: Disrespectful, you know, attitudes toward American tradition,

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democracy,... [LB1042]

SENATOR HOWARD: Movies. [LB1042]

SENATOR CHAMBERS: ...of Christianity and all such things as that? No, I meant live performances. [LB1042]

SENATOR HOWARD: No, I haven't gone to any of those. [LB1042]

SENATOR CHAMBERS: Isn't it true, Senator Howard, that had not the Hannah Montana event occurred this would not have caught your interest? [LB1042]

SENATOR HOWARD: Well, that's what I had said--that I had received a number of e-mails, phone calls, contacts from people who were very upset about that issue. [LB1042]

SENATOR CHAMBERS: And Hannah Montana appeals to a relatively limited audience. Isn't that true? [LB1042]

SENATOR HOWARD: Yes, I would certainly agree. [LB1042]

SENATOR CHAMBERS: And these people can be very loud and insistent, however, and their loudness and insistence can result in legislation being proposed to meet their interests or concerns. [LB1042]

SENATOR HOWARD: Well, I think we'll see how it progresses. I wouldn't say that it would result in legislation. [LB1042]

SENATOR CHAMBERS: And I'm not faulting you. Senators try to represent their constituents and they try to do it the best that they can. And that's all that I will have of you, but these other people are not going to get away so easily, so lightly. If they're lobbyists, they're going to earn their money today. And if they're performers, they're going to explain to me why they're here, worried about a ticket being scalped, and not out making money if they're any kind of performer. So I just want them to know. And here's why I'm doing it this way. There are groups who have no regard for the Legislature and think we will swallow anything. Any kind of bill can be introduced, but I want them to know that there is a reaction that certain types of bills bring. And the only thing I know is what I see presented to me and I'll just touch on a few of the things. When you read this complicated system that they set up for serving subpoenas, for trying to find out who these anonymous persons are who would scalp a ticket by way of the Internet, and they're going to get subpoenas to find out who these anonymous people are and it can all be triggered on the basis of one ticket being scalped--and a ticket would be scalped if it's going to be, roughly speaking, 25 percent above the face

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value of the ticket. So if the ticket is \$10, and I want to sell it for \$15 and I do it by way of the Internet and I don't tell them who I am, it can trigger all of this activity and tie up the courts and the judicial system and law enforcement because I wanted to scalp a ticket. That could be done under this bill? [LB1042]

SENATOR HOWARD: I believe, and I...and I'll tell you what I believe, is that that would not happen unless you were a performer and chose to do that. You would have the option. [LB1042]

SENATOR CHAMBERS: And you're talking about the amendment now. [LB1042]

SENATOR HOWARD: Yes. [LB1042]

SENATOR CHAMBERS: Who offered the amendment, if you know? [LB1042]

SENATOR HOWARD: I did. I put it on. [LB1042]

SENATOR CHAMBERS: Who drafted the amendment? [LB1042]

SENATOR HOWARD: Our Bill Drafting here. [LB1042]

SENATOR CHAMBERS: Say it again? [LB1042]

SENATOR HOWARD: Our Bill Drafting department. [LB1042]

SENATOR CHAMBERS: Well, by that I meant who recommended that an amendment be drafted to deal with this atrocity? [LB1042]

SENATOR HOWARD: Well, it was...the amendment was suggested and it made sense to me to limit the liability. [LB1042]

SENATOR CHAMBERS: Who suggested it? Did the entertainment industry come to their senses, or somebody had sense enough to realize that the way this bill is drafted it is not going to have much chance to go anywhere? [LB1042]

SENATOR HOWARD: I think that the amendment is to help clarify. That's my best suggestion, to help clarify the bill, and to say who... [LB1042]

SENATOR CHAMBERS: But nobody outside of your office was responsible for... [LB1042]

SENATOR HOWARD: We had input. We had input from the outside. [LB1042]

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SENATOR CHAMBERS: From the entertainment industry? [LB1042]

SENATOR HOWARD: The...I'd have to...I can't answer specifically because I really don't know who the calls were from. [LB1042]

SENATOR CHAMBERS: Okay. [LB1042]

SENATOR HOWARD: But I would say probably they contributed, certainly. [LB1042]

SENATOR CHAMBERS: And the reason I'm presenting this to you, Senator Howard, so those who follow you can address the concerns that I have. [LB1042]

SENATOR HOWARD: Senator Chambers, you always raise valid concerns. In the four years I've been here, almost four years, I've learned that you don't let bad legislation get passed. [LB1042]

SENATOR CHAMBERS: That's all I would have of you. Thank you. [LB1042]

SENATOR HOWARD: Thank you. [LB1042]

SENATOR LATHROP: Any other questions for Senator Howard? Seeing none, thank you. [LB1042]

SENATOR HOWARD: Thank you. [LB1042]

GENE ECKEL: Good afternoon. Senator Lathrop, members of the Judiciary Committee, my name is Gene Eckel, that's E-c-k-e-l. I am the registered lobbyist for TixCap, Inc. and I'm appearing before you today in support of LB1042. In its amended form, this legislation would allow an artist, promoter, or producer to file a civil lawsuit against a person who resells a ticket to an entertainment event for more than 50 percent of the face value of the ticket. If someone did sell the ticket for more than 50 percent of the face value of the ticket, then the artist, promoter, or producer would be entitled to damages, and as Senator Chambers pointed out, not less than \$750 and not more than \$10,000; and the proposed legislation would not apply to fund-raising activities performed by or on behalf of a charitable organization; and this legislation does set forth a procedure for the artist, promoter or producer to subpoena information regarding the identity of the wrongdoer from an Internet service provider or an Internet Web site. Now it is my understanding today that the opposition to this bill will testify that LB1042 will make Nebraska's venues less competitive and that Nebraska government should not interfere with the free market system. I should point out to you that currently the city of Omaha already has an anti-ticket-scalping ordinance and, according to that ordinance, it states that a person cannot sell a ticket for more than the face value within six blocks of the Qwest Center, the Civic Auditorium, or the Rosenblatt Stadium. And if you judge it

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by the recent acts that have been coming to Omaha over the past few years, it has not put any of those venues at a disadvantage for artists coming to Nebraska. In addition to that, with regard to regulating this type of industry, there are numerous examples not only here in Omaha but around the country where ticket scalpers are charging four, five times, or more, of the face value of the ticket price to these entertainment events, and I believe that's some evidence that there is some type of regulation that is necessary. This bill is only providing for a limited regulation of the secondary ticket market, and that's to be performed by the entertainment industry itself and not by the state government. And really we see the issue before this committee as whether it is more important to protect the secondary ticket market giants, like eBay and Ticketmaster, who currently have secondary ticket marketing capabilities, or to protect the constituents of Nebraska who are currently being gouged. TixCap believes that the constituents should take precedence. We appreciate the opportunity to come here today and testify in support of LB1042. We urge your support, and I'd be happy to answer any questions at this time. [LB1042]

SENATOR LATHROP: Senator Chambers. [LB1042]

SENATOR CHAMBERS: I would like to bring happiness to you by asking you a question or two, my friend. [LB1042]

GENE ECKEL: Absolutely, Senator. [LB1042]

SENATOR CHAMBERS: Why should a performer have a right to sue? Because even with this amendment, based on what you said, the performer would have a right to sue. [LB1042]

GENE ECKEL: Yes, the performer, promoter or producer, and here's the angle we're going at here. Currently, the anti-ticket-scalping legislation across the country, some of them are being repealed and we understand that, and the reason behind that has been that it's unenforceable; that the government, the prosecutors either don't have the resources or the time. [LB1042]

SENATOR CHAMBERS: But because we have other people who want to testify, I'd like you to answer the question, if you will. [LB1042]

GENE ECKEL: Sure. [LB1042]

SENATOR CHAMBERS: Why should the performer be allowed to sue? [LB1042]

GENE ECKEL: The reason why the performer should be allowed--they're the ones that set the ticket price. And they look at it--and I'll have the people from the entertainment industry speak to it further--but they make specific recommendations on how much they

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want to charge their fans, and they want their fans to be able to be charged a reasonable price. And when the ticket scalpers flood the system and get large amounts of these tickets and then minutes later put it on the Internet at four, five, sometimes ten times the face value, that causes problems for the artist because they do get a bad name in the industry for that. And... [LB1042]

SENATOR CHAMBERS: Why should the Legislature get involved in this kind of activity that occurs in a particular industry? Maybe the scalper has a better notion of the value of the performer than those promoting? [LB1042]

GENE ECKEL: But that... [LB1042]

SENATOR CHAMBERS: In other words, why should the Legislature give a performer standing to sue in these courts of Nebraska? And if ten tickets are sold there is a minimum amount, known as liquidated damages, of \$750. Now if the face value of the ticket is \$15, how can liquidated damages be \$750? [LB1042]

GENE ECKEL: The purpose for those damages is to put some teeth into it to actually prevent these ticket scalpers from taking advantage of the constituents. [LB1042]

SENATOR CHAMBERS: That's not what I asked you. What is the correlation between the face value being \$15 and a \$750 so-called liquidated damage? [LB1042]

GENE ECKEL: Again, the correlation would be that the artist...that the primary result or the primary purpose here is to prevent the ticket scalpers from gouging a consumer. And so if their profit margin is being affected because they are selling it for more than 50 percent of the face value, then they probably won't do it again. That's the purpose behind it. [LB1042]

SENATOR CHAMBERS: Are you a lawyer? [LB1042]

GENE ECKEL: I am. [LB1042]

SENATOR CHAMBERS: Do you think that that could be considered punitive damages because it's far in excess of any damage actually suffered? [LB1042]

GENE ECKEL: That could be an argument, yes. [LB1042]

SENATOR CHAMBERS: Are punitive damages allowed under Nebraska law? [LB1042]

GENE ECKEL: They are not allowed under Nebraska law. [LB1042]

SENATOR CHAMBERS: So why would something like this be presented to this

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committee? [LB1042]

GENE ECKEL: It's a recommendation. That's the beauty of the legislative process here in Nebraska. We... [LB1042]

SENATOR CHAMBERS: What's the beauty of it? [LB1042]

GENE ECKEL: Well, you bring a piece of legislation here and there is a possibility for it to be amended. [LB1042]

SENATOR CHAMBERS: It goes in as a pig and comes out as sausage on the other side. [LB1042]

GENE ECKEL: That's one way of putting it. (Laughter) [LB1042]

SENATOR CHAMBERS: Now why should the Legislature care about any of this? Now here's...to chew it finer, is anything illegal about a person selling a ticket for more than the face value if the Legislature does not say that it's illegal? There's nothing inherently illegal about that, is there? [LB1042]

GENE ECKEL: Only in the city of Omaha. [LB1042]

SENATOR CHAMBERS: There are many products, as I explored with Senator Howard, where a large write-up...markup occurs before they're sold, ultimately, to the public. Isn't that true? [LB1042]

GENE ECKEL: That's very true. [LB1042]

SENATOR CHAMBERS: And nobody is asking that that be made illegal at the...or the one who marks it up be punished criminally for it. Isn't that true? [LB1042]

GENE ECKEL: That is correct, Senator. [LB1042]

SENATOR CHAMBERS: Does the amendment--and I don't see that it does but I haven't been able to correlate it--does the amendment do away with the criminal punishment? [LB1042]

GENE ECKEL: Yes, it does. Yes, it does. [LB1042]

SENATOR CHAMBERS: So there's no longer a criminal sanction. [LB1042]

GENE ECKEL: No criminal sanctions. [LB1042]

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SENATOR CHAMBERS: Does it leave in place all of this utilization of subpoenas to get information on a so-called anonymous person who is using the Internet? [LB1042]

GENE ECKEL: Yes, it does, Senator. [LB1042]

SENATOR CHAMBERS: Is that still in place? You don't think that is disproportionate when we might be talking about one ticket that would cost \$15? [LB1042]

GENE ECKEL: Well, we thought it was a good idea because it does set forth due process considerations where it at least allows that person notification that somebody wants to know of their identity and allows them to object to it on a court of law. [LB1042]

SENATOR CHAMBERS: And if a person should happen to fall within this net--so that I can get to my next question--and be convicted, that person would have to pay a minimum of \$750 for each ticket sold in violation of this law. Is that true? [LB1042]

GENE ECKEL: As it is currently written, that is correct. [LB1042]

SENATOR CHAMBERS: And if a person cannot come up with \$7,500 for selling ten tickets, what happens to that person? [LB1042]

GENE ECKEL: That, at that time, probably someone would then be...you have to go through the debtor/creditor system and... [LB1042]

SENATOR CHAMBERS: And you could get a lien against any property that person had which is not exempted by the law. Is that right? [LB1042]

GENE ECKEL: Eventually you could get that, yes, that's correct. [LB1042]

SENATOR CHAMBERS: Could it reach the point where you could get a lien on their house? [LB1042]

GENE ECKEL: If it got to that. [LB1042]

SENATOR CHAMBERS: And this is what you're asking me to do. I'm going to forget my colleagues. They may not feel like I feel. You're asking me to do that to the citizens of this state because they scalped some tickets. [LB1042]

GENE ECKEL: We are asking you to do that to the ticket scalpers... [LB1042]

SENATOR CHAMBERS: They're people. [LB1042]

GENE ECKEL: ...using...we're talking about the large, large companies or the larger

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ticket scalpers out there or ticket brokers who are gouging the consumers. [LB1042]

SENATOR CHAMBERS: Where does it say that in the bill? [LB1042]

GENE ECKEL: It currently does not say that; that the intent is to go after the larger... [LB1042]

SENATOR CHAMBERS: So you're talking about what you're not discussing in the bill. Why, if that's what you're talking about, why is not that put in the bill? [LB1042]

GENE ECKEL: We can...we can amend that. [LB1042]

SENATOR CHAMBERS: No, I...why is it not in the bill? [LB1042]

GENE ECKEL: We just have not put that in. We overlooked it, Senator. [LB1042]

SENATOR CHAMBERS: So there was carelessness in the drafting of this legislation, because if care had been exercised we wouldn't have the bill before us and this inadequate amendment, would we? Here's what I mean, my friend. You told me whom you're going after--the big guys--and that is not stated in the bill or the amendment. Is that true? [LB1042]

GENE ECKEL: That's true. [LB1042]

SENATOR CHAMBERS: If care had been exercised, it would have been stated, right? [LB1042]

GENE ECKEL: That is correct, Senator. [LB1042]

SENATOR CHAMBERS: So why are we presented with carelessly drafted legislation and asked to enact it into law? Because even if we adopted the amendment, we still are not doing what you say your purpose is. [LB1042]

GENE ECKEL: Uh-huh. [LB1042]

SENATOR CHAMBERS: Do you agree? [LB1042]

GENE ECKEL: I would agree with that, Senator. [LB1042]

SENATOR CHAMBERS: Did you have anything to do with the drafting of this legislation? [LB1042]

GENE ECKEL: I did, Senator. [LB1042]

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SENATOR CHAMBERS: You did? Did you pattern it after legislation in some other state? [LB1042]

GENE ECKEL: We looked at legislation in several different states. We did... [LB1042]

SENATOR CHAMBERS: And it's an amalgam of what happens in various other states? [LB1042]

GENE ECKEL: Yes. [LB1042]

SENATOR CHAMBERS: If you have too many cooks, you can spoil a broth. If you take a little from this state, a little from that state, a little from the other state, there may not necessarily be a correlation so that all the parts fit correctly. Would you agree with that? [LB1042]

GENE ECKEL: That can happen. [LB1042]

SENATOR CHAMBERS: Do you think that could have happened here? Maybe so; maybe not. [LB1042]

GENE ECKEL: That could have occurred. [LB1042]

SENATOR CHAMBERS: From what source did you get all of this language about this subpoena system that is set up? [LB1042]

GENE ECKEL: State of Virginia. [LB1042]

SENATOR CHAMBERS: Have you checked to see how it operates in the state of Virginia? [LB1042]

GENE ECKEL: I have not had an opportunity. I looked at it. I looked at the legislative history having... [LB1042]

SENATOR CHAMBERS: How many times has it been used where all of this going after the Internet and these anonymous people, because a ticket...we're not talking about child pornography, are we? [LB1042]

GENE ECKEL: No. [LB1042]

SENATOR CHAMBERS: We're not talking about somebody letting a contract on a person's life, a hit contract, are we? [LB1042]

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GENE ECKEL: No. [LB1042]

SENATOR CHAMBERS: We're talking about scalping a ticket, aren't we? [LB1042]

GENE ECKEL: Yes, and let me clarify, Senator. The Virginia language just dealt in general with trying to obtain the name of an anonymous wrongdoer through an Internet service provider. We then amended it to deal with someone who's trying to obtain information on an anonymous wrongdoer regarding this particular language. [LB1042]

SENATOR CHAMBERS: Oh, you did, did you? [LB1042]

GENE ECKEL: That's correct, Senator. [LB1042]

SENATOR CHAMBERS: How can you tell me that you're after the big guy when you make the sale of one ticket an offense that triggers all of the actions made available under this bill? [LB1042]

GENE ECKEL: We just...we, initially, what we wanted to do was we wanted to make it broad and then fine-tune it. [LB1042]

SENATOR CHAMBERS: It is broad. Could it get me? [LB1042]

GENE ECKEL: Probably even... [LB1042]

SENATOR CHAMBERS: Well, I meant one person. Could it enmesh one person? [LB1042]

GENE ECKEL: Yes, hypothetically that would occur. [LB1042]

SENATOR CHAMBERS: So you're not really after just the big guys that you mentioned. [LB1042]

GENE ECKEL: No, we would be... actually we're after the large...the ticket brokers who are out there scalping on a mass quantity. The people who actually flood the system are able to get 100 tickets or more and then minutes later put it up on StubHub or TicketsNow. [LB1042]

SENATOR CHAMBERS: So in the process of going after the killer whale, the great white, the barracuda, if you can't get them you're satisfied with a minnow or a guppy. [LB1042]

GENE ECKEL: That would be up to the artist, promoter, and again I can't speak for them. [LB1042]

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SENATOR CHAMBERS: But that could be done under this bill. [LB1042]

GENE ECKEL: That could be done. It could happen. [LB1042]

SENATOR CHAMBERS: Now...and the reason I'm dealing with you like this, because you're a paid lobbyist... [LB1042]

GENE ECKEL: Uh-huh. [LB1042]

SENATOR CHAMBERS: ...and some of the questions I ask you I won't have to ask everybody else who comes up here, if they don't rub me the wrong way. (Laughter) What performer...let's say that Hannah Montana or Haley Myrus (phonetic) or whatever her real name is, she finds out that this is going on. She has a following all over the country, is that true? She's popular. [LB1042]

GENE ECKEL: I can't speak for her, but that's my understanding. [LB1042]

SENATOR CHAMBERS: So then she's out in California, and they say, Miley, those people out in Nebraska caught a guy who sold one of your tickets for twice what it's worth. She'd tell her audience, I know you all came out here to hear me but I've got to call this off because I've got to go back to Nebraska and sue a person. Is that likely to happen? [LB1042]

GENE ECKEL: I would not think that would be likely to happen in that particular situation. If it was a situation where the artist knew that a large quantity of tickets were being sold by a particular individual or entity, and then they would probably go after that entity or person. [LB1042]

SENATOR CHAMBERS: Where would the entity be headquartered in order to be made subject to this bill? [LB1042]

GENE ECKEL: You know, it...well, if you look at the long arm of jurisdiction, it could be anywhere. [LB1042]

SENATOR CHAMBERS: If the Internet is used, where is the crime committed: where the offer is made or where the sale would occur? [LB1042]

GENE ECKEL: Well, that gets into, you know, if there's sufficient minimum of contacts with the state and with the Internet, you kind of get a little bit murky. There is some case law out there that does deal with that. [LB1042]

SENATOR CHAMBERS: So I'm asking you, in this bill, under this bill that you're giving

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us--and I'm going to pretend that the amendment has been adopted so the crime is gone but you want a civil action--... [LB1042]

GENE ECKEL: Okay. [LB1042]

SENATOR CHAMBERS: ...you still have to obtain jurisdiction over the person of the individual you're suing. Where would the offense take place? [LB1042]

GENE ECKEL: Over the Internet or...? [LB1042]

SENATOR CHAMBERS: Yes. [LB1042]

GENE ECKEL: If it was over the Internet, if the artist, promoter, producer was able to prove that the sale was purposefully directed in a substantial way to constituents in Nebraska... [LB1042]

SENATOR CHAMBERS: If it's national, then you could say that the offer was made because under this offering or attempting to sell...you don't have to actually sell it, do you? [LB1042]

GENE ECKEL: No. [LB1042]

SENATOR CHAMBERS: There doesn't have to be a sale, does there? [LB1042]

GENE ECKEL: That's correct. [LB1042]

SENATOR CHAMBERS: Just an offer, isn't that true? [LB1042]

GENE ECKEL: That is correct. [LB1042]

SENATOR CHAMBERS: So if an offer is made from a company in California, any state that had a law would say that that person's offer would be seen by the people in this state, therefore that state has jurisdiction, and the artist could sue in every state in the country where that offer was received. Is that true? [LB1042]

GENE ECKEL: No, I don't believe that would be the case. [LB1042]

SENATOR CHAMBERS: Well, which state could the person not sue in? [LB1042]

GENE ECKEL: I think they'd only be able to sue in the state of Nebraska. [LB1042]

SENATOR CHAMBERS: Well, if the offer was received other places, why would it be available only in Nebraska? [LB1042]

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GENE ECKEL: Well, if it was purposely directed for activity where the concert was only in Nebraska. [LB1042]

SENATOR CHAMBERS: But suppose I'm in Kansas City,... [LB1042]

GENE ECKEL: Uh-huh. [LB1042]

SENATOR CHAMBERS: ...and I'm the one who's going to make all these ticket purchases from the one...wait a minute. If Senator Lathrop is the one making the offer and...(Recorder Malfunction--Some Testimony Lost)... 25 percent above is all right. It's got to be above that threshold, correct? [LB1042]

GENE ECKEL: The...under the... [LB1042]

SENATOR CHAMBERS: Now, if Senator Lathrop offers it, and the young lady is going to be performing in Nebraska, and I am in Kansas and I buy up all the tickets he's offering and now I've got the tickets, am I exempt from this bill? [LB1042]

GENE ECKEL: That would be my understanding. [LB1042]

SENATOR CHAMBERS: So then he and I can set it up so you can't get him and you can't get me. [LB1042]

GENE ECKEL: That could be. [LB1042]

SENATOR CHAMBERS: Is all this worth all this trouble we're going through? We're just at a hearing, and look at all this confusion, all this chaos, and there's been no compelling reason shown for it. If we're having all of this trouble here, how many courts do you think want to be bothered with this? It's not going to be a crime anymore, so law enforcement won't be involved. Who is going to serve the subpoena in Nebraska? [LB1042]

GENE ECKEL: I am assuming that would be the attorney for the artist, promoter, producer. [LB1042]

SENATOR CHAMBERS: So then the attorney is going to go and knock on somebody's door and serve the subpoena himself or herself? [LB1042]

GENE ECKEL: Well, serving it, no, that would probably be done by whoever would be the server. [LB1042]

SENATOR CHAMBERS: By who? [LB1042]

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GENE ECKEL: Whoever would be the server. [LB1042]

SENATOR CHAMBERS: And who would be the server in Nebraska? [LB1042]

GENE ECKEL: In Nebraska? [LB1042]

SENATOR CHAMBERS: Uh-huh. [LB1042]

GENE ECKEL: Well, you could serve subpoenas in various ways under civil, but it could be a sheriff. [LB1042]

SENATOR CHAMBERS: So the sheriff's office could be involved. [LB1042]

GENE ECKEL: It could be involved. [LB1042]

SENATOR CHAMBERS: Could the sheriff refuse to serve the subpoena if requested? [LB1042]

GENE ECKEL: I can't answer that question. [LB1042]

SENATOR CHAMBERS: Huh? [LB1042]

GENE ECKEL: I would not be able to answer that question. [LB1042]

SENATOR CHAMBERS: Okay. That's all I'll get from you. And you make those people who gave you that, make them pay you because they had a chance to see what you went through. (Laughter) [LB1042]

GENE ECKEL: Thank you, Senator. [LB1042]

SENATOR CHAMBERS: Okay. [LB1042]

SENATOR ASHFORD: Thank you. Any other questions? Thanks. [LB1042]

GENE ECKEL: Thank you. [LB1042]

SENATOR ASHFORD: Go ahead. [LB1042]

R.J. ROMEO: (Exhibit 14) Chairman Ashford, members of the Judiciary Committee, my name is R.J. Romeo. I'm an entertainment attorney from Omaha, Nebraska, and I'm also the president of TixCap, Inc., and I am here today because I believe it's time for Nebraska to take the lead on the way ticket scalping legislation is enforced in America.

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It is time for someone to stand up to the ticket scalping industry and remind them that they are not the ones in control of setting ticket prices. The people who put their time and money into producing, promoting, and attending these events are the ones in control. LB1042 is a pro-consumer bill that is designed to prevent the ticket scalping industry from being able to gouge Nebraska consumers. Let me be clear about this. This is not about the state regulating the free market. This is about the state giving an industry the right tools to self-regulate from within. Now I'd like to have an open discussion because there's a lot of questions out there and I'd like to help try to clarify that with my remaining time. So can I address... [LB1042]

SENATOR ASHFORD: Oh, okay. Senator Chambers. [LB1042]

SENATOR CHAMBERS: Did you have questions, because I kind of cut you off, Senator Pirsch? [LB1042]

SENATOR ASHFORD: Senator Pirsch, do you have a question? [LB1042]

SENATOR PIRSCH: I just had some kind of background questions, but I can come around and ask that after you conclude. [LB1042]

SENATOR ASHFORD: Well, if you have background questions, go ahead and get some background on this thing. [LB1042]

SENATOR PIRSCH: Well, just typically, usually these...at least the discussion thus far has been taking place within the context of a larger type of concert, perhaps one at the Qwest Center or whatnot? [LB1042]

R.J. ROMEO: Uh-huh. [LB1042]

SENATOR PIRSCH: Is...how does that...how does it work currently for, just as an example, that Miley Cyrus deal? When...and first of all, are you aware of the usual arrangements as far as promotion and that sort of thing? [LB1042]

R.J. ROMEO: Yeah, I've worked in the industry pretty much my entire life, and actually you'll hear from a promoter later on who might be able to better answer your question if I don't fully answer it. [LB1042]

SENATOR PIRSCH: When they approach different venues, like the Qwest Center or whatnot, do they...is there...do they have...they set the ticket prices and say here's how much you should offer them for and that's part and parcel of a normal agreement and other types of basic agreements? Okay. [LB1042]

R.J. ROMEO: Correct. To answer that question, in the case of Hannah Montana or

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Miley Cyrus, the promoter, Anschutz Entertainment Group, actually came in and told...they set a cap at the amount that they wanted people to pay for that ticket, and that cap was \$65. Now they set that cap because they said we don't want our consumers to have to pay more than that because we want to keep this affordable for everyone. [LB1042]

SENATOR PIRSCH: Do they set what types of methods that you can offer it, like for the venue to offer, or do they offer it directly themselves? [LB1042]

R.J. ROMEO: Are you talking about restrictions on how many tickets you can... [LB1042]

SENATOR PIRSCH: Well, I'm talking about how do you sell tickets to begin with? Obviously they're offered at the ticket box, right? There... [LB1042]

R.J. ROMEO: Yes. [LB1042]

SENATOR PIRSCH: ...you can go into the Qwest Center and buy tickets there. But there's other methods, right, via the telephone, via the Internet or... [LB1042]

R.J. ROMEO: Yes. In the Internet age the majority of them are sold via the Internet, but there's also telephone. It's my understanding that the majority is done through the Internet. And that's actually where a lot of the problem comes from, because the sophisticated scalpers will use what are called robots to send DNS signals to the server for Ticketmaster. And the DNS signal says...well, what it does is it overwhelms the system so that only the ticket scalper using that program can cut to the front of the digital line and buy up as many tickets as they can. And Ticketmaster has actually taken issue with that and has sued RMG Technologies, which is a case currently pending in California regarding that very issue. [LB1042]

SENATOR PIRSCH: So that problem may or may not be taken care of in the future then, right, with respect to how the court case goes? Is there a way that you can prevent, with software, that? [LB1042]

R.J. ROMEO: Yeah. [LB1042]

SENATOR PIRSCH: I mean that's kind of a separate second issue and I don't want to get off point so much, but... [LB1042]

R.J. ROMEO: In the packet that you have, there is a news article dealing with that, where the Colorado Rockies figured out how to prevent some of those DNS hits. [LB1042]

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SENATOR PIRSCH: Okay. So we're talking about the secondary...what we...what we're talking about here today is the secondary market, so to speak, and (inaudible). [LB1042]

R.J. ROMEO: Tickets go on sale in the primary market... [LB1042]

SENATOR PIRSCH: Right. [LB1042]

R.J. ROMEO: ...and then the scalpers buy them up in the primary market or they get them through fan clubs and things like that. The way that the artists typically try to prevent scalpers from getting tickets is by limiting the amount of tickets someone can buy. But they'll also, in order to get around that, they'll hire people to stand in line and buy tickets. They'll use those robots to come in and buy more chunks of tickets. [LB1042]

SENATOR PIRSCH: Okay. And do you represent the artist then themselves or...I mean, your role? [LB1042]

R.J. ROMEO: TixCap is a new company. I've been in conversations with several artists and we're trying to convince them...they're looking for a way to deal with the scalping issue. It's an issue that's affecting the industry and they see it as harming their fans, and they want a way to try to control that. Right now, no legislation out there gives them the tools necessary to be able to go out and control their ticket pricing strategies, which they consciously and deliberately design to try to help their fans, in most cases. [LB1042]

SENATOR PIRSCH: Okay. And with respect to...are you aware of specific incidents or specific, I guess, specific groups or solo acts or whatnot who have experienced that in the state? [LB1042]

R.J. ROMEO: Yes. [LB1042]

SENATOR PIRSCH: Can you just kind of comment on...a little bit on that of the problems of... [LB1042]

R.J. ROMEO: Sure. [LB1042]

SENATOR PIRSCH: I mean who they were and whether, you know, what the specific problem was (inaudible)? [LB1042]

R.J. ROMEO: Sure. In preparing for even this hearing, I went on-line and I looked at Nebraska's biggest ticket scalper, who I think you might hear from his president today, Ticket Express, Inc. And Ticket Express, Inc., I just went on there and I just checked to see, okay, let's see what they've got available for the upcoming Bruce Springsteen show at the Qwest Center. And I went on there and there were over 150 tickets, and if

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they were to sell each and every one of those tickets for over face value, sometimes...in fact one ticket...many tickets, excuse me, were priced at \$800 and the actual box office price was capped at \$95. So I went there. I said, okay, if I buy your entire ticket inventory, how much is that going to cost me? Ninety-one thousand dollars, that was the result. So this scalper stands to make \$91,000 from buying tickets in the primary market and taking them away from fans who would have paid the box office price. And now they're trying to gouge the fans because they've got the good tickets. They've got the tickets. [LB1042]

SENATOR PIRSCH: Has Bruce Springsteen weighed in? I mean, is he one of the individuals? [LB1042]

R.J. ROMEO: Publicly, his manager, Jon Landau, has weighed in and said they are very antiscalping. Garth Brooks is another artist who has weighed in publicly and said he will not go on tour until somebody figures out how to stop the scalping problem. [LB1042]

SENATOR PIRSCH: Thanks. I appreciate that kind of background. [LB1042]

R.J. ROMEO: Sure. [LB1042]

SENATOR PIRSCH: I'll let Senator Chambers ask (inaudible). [LB1042]

SENATOR LATHROP: Just a second. Senator Chambers. [LB1042]

SENATOR CHAMBERS: When you go to buy a brand new car, is there a manufacturer's suggested retail price? [LB1042]

R.J. ROMEO: I believe there is. [LB1042]

SENATOR CHAMBERS: Is the dealer bound by that suggestion from the manufacturer? [LB1042]

R.J. ROMEO: I'm sure they can give discounts if they want. [LB1042]

SENATOR CHAMBERS: Otherwise it wouldn't say "suggested." It would be this is the price. So if Senator Lathrop is a dealer and the suggested retail price is \$10,000--to make it easy for me--and he has 100 vehicles and I buy every one of those kind because they're very popular,... [LB1042]

R.J. ROMEO: Uh-huh. [LB1042]

SENATOR CHAMBERS: ...and I sell each one for \$20,000, should a law be passed to

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stop me from selling that product for more than the manufacturer thought it should be sold for? [LB1042]

R.J. ROMEO: Not unless the manufacturer wants to make sure that their consumers pay that price, in which case they could control that contractually or they could try to have some legislation passed. [LB1042]

SENATOR CHAMBERS: Why should the government get involved in the personal business affairs and dealings and calculations and machinations of business people? [LB1042]

R.J. ROMEO: I think that's an excellent question and my answer would be that the industry needs the tools to be able to fight back. If an... [LB1042]

SENATOR CHAMBERS: That's not an answer for establishing a legislative policy. It's establishing what you want to have done. But my fundamental question is, why should the state give you that when it's within your control? Why doesn't Bruce Springsteen people, why don't those people charge \$800 per ticket? Because they don't want to offend their fans, is that what you're telling me? [LB1042]

R.J. ROMEO: My understanding is that artists pick the amount they want to charge their fans so that it's affordable for everyone and that they can get as many of their fans there. [LB1042]

SENATOR CHAMBERS: We don't always get what we want, though, do we? [LB1042]

R.J. ROMEO: No, sir. [LB1042]

SENATOR CHAMBERS: These are grown people of the world, these promoters. They are some of the most cynical, hardheaded, realistic people you can find, aren't they? They're in a dog-eat-dog, cutthroat industry, aren't they? [LB1042]

R.J. ROMEO: Yes. [LB1042]

SENATOR CHAMBERS: So they should be able to take care of their own interests, shouldn't they? [LB1042]

R.J. ROMEO: And hypothetically, they could bring a lawsuit and sue somebody. In fact, I'll give you an example. There's a couple out there called Musictoday. Musictoday manages fan clubs for Dave Matthews and for Kenny Chesney. Kenny Chesney is an artist who likes to keep tickets affordable for their fans. On the back of Kenny Chesney's tickets it says--and you agree when you become a fan club member that you cannot resell that ticket for more than face value. This company out there, Musictoday, they go

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and they troll the Internet, and if they find a fan club ticket being resold for more than face value, they invalidate the ticket and put it back into the manifest and sell it. [LB1042]

SENATOR CHAMBERS: So then they don't need legislation for that, do they? [LB1042]

R.J. ROMEO: In this... [LB1042]

SENATOR CHAMBERS: They can handle it themselves, can't they? Can't they? [LB1042]

R.J. ROMEO: The fan club is a very small portion and the larger problem comes from the tickets that are being sold to the public. [LB1042]

SENATOR CHAMBERS: But there are things they can do if they want to. They just don't want to go to the trouble or perhaps the expense to do it. Isn't that true? [LB1042]

R.J. ROMEO: They are doing what they can now, but they need more tools if they are really going to have an impact on the scalping industry. [LB1042]

SENATOR CHAMBERS: I don't care about that. I think it's commendable for somebody to buy something for \$10 and then you got a bunch of fools who will pay \$1,000 for it. Why should not I sell it for \$1,000? Aren't you crippling the person who is innovative enough to get more bang for his or her buck than others? [LB1042]

R.J. ROMEO: I would say, no, we're not crippling them, because we're giving them a provision to make a reasonable profit. Senator, we're trying to prevent the consumers from being gouged. And if somebody says they can't survive on a 50 percent profit margin, which is what the amendment says, is 50 percent above the face value of the ticket, I mean, I guess I would be like the...I'm sure you're going to hear from the lobbyist for StubHub, who's the largest ticket market reseller in the world. The... [LB1042]

SENATOR CHAMBERS: But the reason we're here is because your side brought this legislation, your side wants us to take this time. The main problems I have with the bill are still not addressed, and if I don't like this bill I assure you it's not going anywhere. And I don't like the bill. And I haven't gotten an answer from you that shows me a justification for the Legislature to do it. I'm not saying that the industry cannot adopt any and all means within the law to try to address what they see as a problem, but when they bring it to the Legislature they're putting something in my yard and they want me to deal with a matter that they themselves can deal with now. Maybe they don't know how properly to price their tickets, but that's not something the Legislature should deal with. But I want to ask you a couple of questions. If you wanted one of these vehicles that I'm

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talking about in my example, and Senator Lathrop can only sell it for \$10,000 because of what the manufacturer said, and I'm going to sell them but you'd have to pay \$20,000 to get it from me, you don't have to buy it from me, do you? [LB1042]

R.J. ROMEO: No. [LB1042]

SENATOR CHAMBERS: But if you want it badly enough, you're going to buy it from me. [LB1042]

R.J. ROMEO: Yes. [LB1042]

SENATOR CHAMBERS: Did I make an investment and run a risk when I purchased every car that he has, counting on being able to sell them all? Am I not undertaking some kind of risk? [LB1042]

R.J. ROMEO: Yes. [LB1042]

SENATOR CHAMBERS: And I'm putting my money out there up front. And if I don't sell those cars, I take a bath, don't I? [LB1042]

R.J. ROMEO: Potentially. [LB1042]

SENATOR CHAMBERS: And in America, if a capitalist makes...undertakes a risk, the reward is in profiting. [LB1042]

R.J. ROMEO: What... [LB1042]

SENATOR CHAMBERS: Sometimes the bigger the risk the bigger the profit. Some investments are like that. If the profit is guaranteed to be a large amount you know the risk is pretty high. So why, if that's the way it operates throughout the world of finance and "gougery," why should it not work like that in what we're talking about? [LB1042]

R.J. ROMEO: The low cost of entry for someone to be able to just buy a concert ticket or to hire somebody else to stand in line to buy a concert ticket is one of the fundamental problems, because anyone can do it. Anyone can become a scalper. They can just stand in line or they can go on line, buy a ticket, and then turn around, give it to a bigger reseller and make a huge profit. [LB1042]

SENATOR CHAMBERS: If they have trouble making ends meet and they don't have a job and that's a way to make money, would you begrudge them the right to make money in that fashion, to stand in line and buy some tickets and sell them for more than what they pay? [LB1042]

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R.J. ROMEO: In that scenario, no. [LB1042]

SENATOR CHAMBERS: Or to be hired for it? [LB1042]

R.J. ROMEO: Absolutely not, in that scenario. And that's why this bill isn't designed...and I understood your point when Mr. Eckel was testifying, maybe it should be defined that only people who sell in bulk. But the problem is and the reason the subpoena provision is necessary is because you can't identify who's selling your tickets, and you're going to hear from the executive director of the Academy of Country Music Awards. He's going to tell you he called StubHub to find out who was reselling the tickets to his award show, and they won't tell you. So... [LB1042]

SENATOR CHAMBERS: This sounds like so much whining and bickering as I've not seen. But that's all I'll ask of you because I don't want anybody to just feel bludgeoned by me, other than that paid lobbyist. [LB1042]

R.J. ROMEO: I would like to address one of your questions though. [LB1042]

SENATOR CHAMBERS: Well, if you address it you might open the way for others, so maybe you ought to let well enough alone. And if somebody else asks the question, then you can address theirs. [LB1042]

R.J. ROMEO: That's fine. [LB1042]

SENATOR LATHROP: Are there any other questions? I don't see any. [LB1042]

R.J. ROMEO: Then... [LB1042]

SENATOR LATHROP: Thank you. [LB1042]

R.J. ROMEO: Thank you. [LB1042]

SENATOR LATHROP: Anyone else wishing to testify in support of this bill? [LB1042]

RENAE TERRANO: Good afternoon. I'd like to thank Senator Howard for allowing me this time. I am here in support of LB1042. My name is Renae Terrano. [LB1042]

SENATOR LATHROP: Ma'am, can you spell your last name for us? [LB1042]

RENAE TERRANO: Yes. T-e-r-r-a-n-o. I'll spell my first name too. It's kind of different, R-e-n-a-e. And I had firsthand experience. I'm the mother of four, and so pretty much I'm representing your industry of Miley Cyrus and Disney, the kids, one of the parents. And when Hannah Montana came to Omaha, we were going to get the tickets for my

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daughter's birthday in September, and clearly we were the first people. The kids are very wise. They know when the tickets are coming. They know when they're coming to Qwest. They can Google. They can go on-line and see when they're on. They tell us. We got on the very first day, the minute...we actually talked to somebody and they were sold out within a minute? One minute, they're all...there's no tickets available? And, you know, those artists, the artists set their ticket prices, like I think for Miley Cyrus it might have been \$65 per ticket. That's affordable for our family of six, for both parents, four kids to go. And then, you know, because they want it to be affordable for families, for everybody, they don't want to...you know, they want to be equal for anybody to be able to entertain. That is what the artists and the industry do. That's what they like to do, entertain. We all like to be entertained. You grab the scalpers to come in and do something like this, jack up the price \$250 for one ticket. Now you're talking about \$1,000. Okay, you can go to the concert but you can't do this for the next three months because we just paid \$1,000 for, you know, a concert. So, you know, we did not have a good experience and it's not the first time that we've had a bad experience. You know, I think what the bill also does is it also puts in there for athletic...professional athletes that come, too; not only just, you know, the artist. But my primary concern was with the Miley Cyrus and it was very disappointing for my kids. I have several other friends that are married with kids also and they went to the concert. They paid \$250 per ticket. Were they happy? No. You want your consumers to be happy about going to a concert, as well as their kids, and not feel bad about it. I mean that's...we like to be entertained. That's the industry. We enjoy it. I thank you for your time and consideration. [LB1042]

SENATOR LATHROP: Thank you. We'll see if there's any questions. Okay. Seeing none, thank you for coming down today. [LB1042]

RENAE TERRANO: Thank you. [LB1042]

SENATOR LATHROP: Any other people that would like to testify in support of the bill? [LB1042]

LAWRENCE BRADLEY: Hello, senators. Excuse me, I got a common cold so my voice my be a little bit scratched. I'm here to ask this committee to vote in our favor to put this bill on the floor, or some form of it. I told...I called Senator Howard... [LB1042]

SENATOR LATHROP: Lawrence. Lawrence, could we start with your name? [LB1042]

LAWRENCE BRADLEY: Yes, sir. [LB1042]

SENATOR LATHROP: Put that on... [LB1042]

LAWRENCE BRADLEY: My name is Lawrence Bradley, L-a-w-r-e-n-c-e B-r-a-d-l-e-y, and I live at 6068 Country Club Oaks Place, Omaha, Nebraska, 68152. [LB1042]

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SENATOR LATHROP: Thank you. [LB1042]

LAWRENCE BRADLEY: And I'd heard of how Senator Howard was in the forefront of this issue of the scalping industry and I just related to her what had happened to me and, in turn, I'm relating what had happened to you. And I'm not a lobbyist, so I'm just a citizen of the state of Nebraska. I had approached the NCAA Regional Basketball Tournament, men's tournament is at the Qwest Center, and I had approached the Qwest Center for tickets and they told me that only Creighton season ticket holders will get the opportunity to purchase those tickets. So I thought, well, I didn't...I didn't purchase season tickets for Creighton and that so perhaps...I was a little disgruntled about that because I, you know, why can't I, Joe Public, Joe, you know, buy tickets to the NCAAs? And this is something that the whole community of Omaha should have an opportunity to get. I mean they're quick to take our tax money and they were quick to pass that bond issue and they were, you know, saying that the Qwest Center was built there and put there to revitalize a certain part of Omaha and that everybody would get a chance to use it, but that's not the case. But nonetheless, I took my lumps. They sold out. Then I get an e-mail from [TicketExpress.com](http://TicketExpress.com) that they have tickets for sale to the NCAAs and I have them here. For round one you can get lower bowl center for \$399; for round two you can get lower bowl center for \$599; and you can get, for \$995, you can get both rounds' tickets. So I was wondering what had happened there between the time that only Creighton season ticket holders received the tickets as opposed to now that it's on [TicketExpress.com](http://TicketExpress.com) and anybody, you know...and so for me it seems that the way it's set up, that certain sectors of society or, you know, and it's just not socioeconomic issues, but that certain sections of society are disenfranchised, excluded, from the opportunity to buy the tickets to attend the events that are at the Qwest Center that everyone should have an equal chance to get to. And so that's...and perhaps maybe the state has to step in because...and I'm just saying perhaps. Maybe that there's some type of cronyism that's taking place between officials, upper administration of, say, the Qwest Center and certain entities in Omaha that only keep certain people able to see those events. And sometimes I wonder, is it purposely that they do this so that it might harm the image of Omaha they see on national TV? They only want certain people in those stands, that all people from all parts of Omaha can't see that event, or say all parts of Nebraska. I mean I figure from somebody from Scottsbluff, McCook, anybody should have had a chance to buy those tickets, but it was excluded to only Creighton season ticket holders. Now I don't blame the average Creighton fan, the average Creighton alumni that, you know, had that chance. I probably would have grabbed those tickets too. But you just, you know, we have...something needs to be done and if it's not this bill, when they get their ducks in a row where they can present a bill that has, you know, I can understand it's a free market, capitalism and such, but their...it's in a sense that it's excluding a certain sector of population for ever attending the events. [LB1042]

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SENATOR LATHROP: Okay. We're going to have you wrap up. [LB1042]

LAWRENCE BRADLEY: And that's it. [LB1042]

SENATOR LATHROP: Is that... [LB1042]

LAWRENCE BRADLEY: That's it. Yes, sir. Yes, sir. [LB1042]

SENATOR LATHROP: Okay. Thank you. We appreciate that and it sounds like another and separate concern. Anybody have questions for Mr. Bradley? [LB1042]

LAWRENCE BRADLEY: Yes, sir. [LB1042]

SENATOR LATHROP: Yes, Senator Chambers. [LB1042]

LAWRENCE BRADLEY: Senator Chambers. [LB1042]

SENATOR CHAMBERS: Just one. Your grievance or gripe seems to be with the way they operate in Omaha at the Qwest Center and the NCAA. The NCAA is known to be interested in getting as much money as it can, so that should be no surprise. But if it's an Omaha located problem, why don't the people in Omaha who are concerned do something in addressing the local officials in Omaha? The city council, that metropolitan entertainment and whatever other board thing that it's called, go to them instead of asking the state to do this. Why is that not done? [LB1042]

LAWRENCE BRADLEY: I agree with you, Senator. There needs to be an uprising, a groundswell, you know, efforts to make that happen at the city level as well, and... [LB1042]

SENATOR CHAMBERS: And don't...excuse me, don't people have to set priorities and determine how much things mean to them and how much they're willing to spend for it? Don't the citizens, the ones who are being...the public must make a determination as to whether or not this is high enough priority to deprive themselves of one thing that might be a necessity to go be entertained. That's a decision for the would-be ticket purchaser or attendee to make, isn't it? [LB1042]

LAWRENCE BRADLEY: Yes, sir. Yes, sir. [LB1042]

SENATOR CHAMBERS: And the state should step in and say because you are willing to overspend to go see a performance, the state should protect you. [LB1042]

LAWRENCE BRADLEY: Not so much overspend. If the ticket was at face value and a lot of hardworking people can only pay, you know, that face value, then perhaps they

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should have a, you know, an equal opportunity to... [LB1042]

SENATOR CHAMBERS: Well, suppose the original price for the ticket was \$399. Then you wouldn't have a problem with that if it was \$399 and whoever could pay could get the tickets. That would be all right with you? [LB1042]

LAWRENCE BRADLEY: Well, if it was set at \$399, I think they'd be hard-pressed to get that place sold out. [LB1042]

SENATOR CHAMBERS: But that's not the issue. If the ticket price were set at \$399 for that first round or whatever they called it, \$499 for the second, \$599 for the third, you would not object to that and ask the state to do something about making them set a lower price. [LB1042]

LAWRENCE BRADLEY: That's right. If it was equal opportunity for everyone to have that chance to purchase that ticket at that price, that is correct. [LB1042]

SENATOR CHAMBERS: Let's say that this bill were enacted. It doesn't have anything to do with tickets being limited to season ticket holders, would it? [LB1042]

LAWRENCE BRADLEY: As far as I know, no, sir. [LB1042]

SENATOR CHAMBERS: So why are you supporting this bill? [LB1042]

LAWRENCE BRADLEY: I'm supporting some type of legislation. [LB1042]

SENATOR CHAMBERS: Oh, I see. Okay. [LB1042]

LAWRENCE BRADLEY: Some type of legislation that would, you know, somehow make it, again, an equal playing field for the average person to be able to purchase tickets to an event. [LB1042]

SENATOR CHAMBERS: Okay. So the real target is Senator Schimek so you're going to shoot me. (Laughter) [LB1042]

LAWRENCE BRADLEY: No, I'm not going to shoot anybody. [LB1042]

SENATOR CHAMBERS: Here's what I'm getting at. [LB1042]

LAWRENCE BRADLEY: Okay. [LB1042]

SENATOR SCHIMEK: You don't have to answer that. (Laugh) [LB1042]

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SENATOR CHAMBERS: If...no (laughter) and here's what I'm getting at. If the quarrel is with selling tickets only to season ticket holders, then going after scalpers is not going to really be the issue that can be addressed. This bill wouldn't address what you see as a problem. [LB1042]

LAWRENCE BRADLEY: Yes. Okay. I see, because there's, you know, and maybe more neutral than opponent/proponent. It's not just the ticket scalpers, not totally their fault. [LB1042]

SENATOR CHAMBERS: Have you considered approaching Creighton? [LB1042]

LAWRENCE BRADLEY: Yes, and... [LB1042]

SENATOR CHAMBERS: And what did they tell you? [LB1042]

LAWRENCE BRADLEY: ...and pretty much at their ticket window at Morrison Stadium the same thing, only Creighton season ticket holders had that opportunity to purchase the tickets. And once they were sold out, I can only wonder if some of their season ticket holders then had approached [TicketExpress.com](http://TicketExpress.com) and said, I have tickets here, I have excess tickets here and I'm willing to make a profit. And my...and I can only, you know, assume this; not saying it's true, but why should this be a cash cow for Creighton? [LB1042]

SENATOR CHAMBERS: Then Creighton, wouldn't Creighton be the culprit? [LB1042]

LAWRENCE BRADLEY: They would be part of the problem, part of the problem. [LB1042]

SENATOR CHAMBERS: Why don't you talk to that priest who's the president of Creighton University? And if there are people who feel as you do, and there may be, why don't you all go talk to the president of Creighton University and say they're supposed to be a moral force in the community. They're supposed to be a good neighbor. They talk about giving students high values--I graduated from Creighton--and they get federal money for building parking garages. They want some federal money for an overpass because their students at 24th and Burke will be talking on their phones and not watching the traffic; so, although they're in the university, they need an overpass so they won't get run over by cars or be splashed because they stand close to the curb when there's water and cars go by. If Creighton is getting all that consideration, has it never occurred to anybody to go--I think his name is Schlegel--it has never occurred to anybody to get a delegation and go ask him why will Creighton do this? It never has? [LB1042]

LAWRENCE BRADLEY: I agree. I agree. I agree. [LB1042]

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SENATOR CHAMBERS: That would be my suggestion, and when you get there tell him Senator Chambers, an alumnus, told us we should come do this. [LB1042]

LAWRENCE BRADLEY: Yes, sir. Yes, sir. [LB1042]

SENATOR CHAMBERS: Okay. [LB1042]

SENATOR LATHROP: All right. [LB1042]

SENATOR CHAMBERS: That's all I have. [LB1042]

SENATOR LATHROP: Okay. Thank you. Thank you, Lawrence. [LB1042]

LAWRENCE BRADLEY: Thank you. [LB1042]

SENATOR LATHROP: Good to see you again. I think we're still on proponents. [LB1042]

DANIEL GARDNER: Hello. My name is Daniel Gardner, D-a-n-i-e-l Gardner, G-a-r-d-n-e-r. I'm a financial analyst during the day and I'm also a manager of a regional band. I'm here to talk today basically to support LB1042, as a proponent of live music. To give you a little background, as Senator Pirsch asked earlier, kind of why my involvement would be, just as he asked R.J., over about the last eight years I've gone to about 100 different concerts and about...approximately 60 of those shows have been in support of the Dave Matthews Band. Now this is a band that's prided themselves in the industry as being one of the...over the last decade, according to Pollstar, they're about second in ticket sales over that last decade but, at the same time, one of the lowest ticket prices. They've tried to hold those ticket prices down too. Since 1992, they started out at about \$30 on the lawn, now they're \$35; reserved seats at \$60 and now in about 2007 they're \$65. It's enabled the fans, basically, whether you're college age, which is where I started, or you're a professional or you're just coming up through high school, to be able to see this band wherever they tour across the country. So basically, when it comes to the ticket scalping market, as R.J. talked about earlier, you have Musictoday, which is kind of a forefront, like the music store for both Dave Matthews and Kenny Chesney, and then there's other advocacy groups and membership groups like Warehouse. The Warehouse is Dave Matthews' membership club. If you buy a membership to get in there, you have early access rights to the tickets and you can get two tickets for every show, up to five shows in the tour. Now this is a band similar to, like, a Garth Brooks that has believed in, if you tour several nights, it will allow...in the same city, it will allow all the fans to get into those shows if they see fit. So you're not trying to take an 18,000-person venue and get everybody in there in one night. You're still keeping the low pricing and extending the number of dates you play in a city. So if

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you get into the Warehouse, you have these privileges to get in and get into the, basically, the ticket lottery and get your two tickets for up to five shows on each leg of the tour. Now they've proposed methods, you know, to help keep the tickets out of the hands of the scalpers, such as following on-line threads and taking a look at scalpers' screen names and following them through to StubHub and eBay; reporting scalpers on the fan boards, which will ultimately go back up to the staff that manages these sites; and then also patrolling the parking lot for scalping. But all that put together, I mean over these 60 shows I still see to this date...I can give you just three examples, to wrap up here. I go out to a venue every summer in the middle of Washington State. They do a three-night stand on Labor Day weekend to try to get all the fans in. I've had third row tickets which I purchased for \$65 a seat. On StubHub and eBay I see the tickets exactly two seats down in the same row from me, in third row, selling for \$2,000 a ticket. Red Rocks 2005, the Hurricane Katrina benefit was supposed to be a charity show. Ticket prices were nothing. You could offer a donation up and then all of the money that came off "merch" and liquor sales that night were going toward the Hurricane Katrina fund, and those tickets were at...you could find them for \$400 to \$500 on StubHub. So those are just a few examples of...from a different perspective, somebody who travels to watch the bands versus the...just the problem here, so.... [LB1042]

SENATOR LATHROP: Okay. Thank you, Mr. Gardner. [LB1042]

DANIEL GARDNER: Yeah. [LB1042]

SENATOR LATHROP: Senator Chambers, do you have a question? [LB1042]

SENATOR CHAMBERS: Just a couple. [LB1042]

DANIEL GARDNER: Yeah. [LB1042]

SENATOR LATHROP: Okay. [LB1042]

SENATOR CHAMBERS: Mr. Gardner, under the definition of "entertainment event," they mention athletic contests, exhibitions, boxing, football, wrestling, swimming, and a number of things. They don't mention mixed martial arts, so you could scalp a ticket for mixed martial arts and not be affected by this bill if that's not listed. Is that true? [LB1042]

DANIEL GARDNER: I would assume so. [LB1042]

SENATOR CHAMBERS: You could scalp tickets for track meets, which are not listed. [LB1042]

DANIEL GARDNER: Correct. [LB1042]

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SENATOR CHAMBERS: You could scalp tickets for rodeos. [LB1042]

DANIEL GARDNER: Correct. [LB1042]

SENATOR CHAMBERS: And, in fact, anything not listed here you could scalp tickets for. So the ones who really are interested in this bill, they're not interested in carnivals or sideshows, are they? [LB1042]

DANIEL GARDNER: No. [LB1042]

SENATOR CHAMBERS: That hasn't been a...or circuses. [LB1042]

DANIEL GARDNER: No. [LB1042]

SENATOR CHAMBERS: Or entertainment at a fairground. [LB1042]

DANIEL GARDNER: Not that I'm aware of. [LB1042]

SENATOR CHAMBERS: So why was all this put in here, if you know? And if you don't, I'm not even going to pursue it. [LB1042]

DANIEL GARDNER: Oh, I...yeah, I do not know. [LB1042]

SENATOR CHAMBERS: Do you play in your band... [LB1042]

DANIEL GARDNER: No. [LB1042]

SENATOR CHAMBERS: ...or do you just lead it? [LB1042]

DANIEL GARDNER: I manage it. [LB1042]

SENATOR CHAMBERS: Oh, you manage it. [LB1042]

DANIEL GARDNER: Manage the band, yeah. [LB1042]

SENATOR CHAMBERS: Okay. How much are the tickets for your performances? [LB1042]

DANIEL GARDNER: Tickets usually range at the door between \$5 and \$10. [LB1042]

SENATOR CHAMBERS: Would you be flattered if somebody could get \$100 for one of your tickets? [LB1042]

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DANIEL GARDNER: You know, actually no, because the problem is what we try to do is fill the venue and I don't believe that we can fill the venue at \$100 a ticket. [LB1042]

SENATOR CHAMBERS: If you could, would that be flattering? [LB1042]

DANIEL GARDNER: If we reach that point of success, yeah, I would be. [LB1042]

SENATOR CHAMBERS: Sometimes the price you charge makes people think something about the quality they might get. [LB1042]

DANIEL GARDNER: I do. It shows the...you'd think it would be a reflection of the reputation, yeah. [LB1042]

SENATOR CHAMBERS: Well, as a financial manager, consider that a little piece of advice... [LB1042]

DANIEL GARDNER: I know. [LB1042]

SENATOR CHAMBERS: ...from me that I'm not going to charge you for. (Laugh) [LB1042]

DANIEL GARDNER: We're on the way up. I got it. (Laugh) [LB1042]

SENATOR CHAMBERS: That's all that I have. Thank you. [LB1042]

SENATOR LATHROP: Thank you, Mr. Gardner. [LB1042]

DANIEL GARDNER: Thank you. [LB1042]

SENATOR LATHROP: Any other proponents? I will, while this gentleman is being seated, remind you that we have a light system. When you get to the yellow light, wrap it up if you can. Summarize. And when you get to the red light--just because we have to get out of here at some point tonight--when you get to the red light, that means stop. [LB1042]

ROBERT ROMEO: I will stop. [LB1042]

SENATOR LATHROP: Okay. Thank you. [LB1042]

ROBERT ROMEO: My name is Robert Romeo. My father started an agency 56 years ago. We've been in business in the state of Nebraska, producing live shows throughout the state. We do about 1,000 shows a year around the country, in which probably

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several dozen are held in the state of Nebraska at various fairs and festivals, shows at the Qwest Center. And actually this issue of ticket scalping came up years ago when we were promoting the show Garth Brooks at Ak-Sar-Ben, and we knew we would have a heavy on-sale of tickets. We tried to anticipate that. And the only tool we really had available to us to help keep tickets in control really was that of limiting the amount of tickets, so we tried to limit it to four tickets per person to control people buying and reselling tickets. You know, and you look at technology as how that has changed in the last 12 years, 14 years, the problem today and I think the issue that this bill is trying to address, whether it's successfully addressing it or not, really is technology and what technology has done to the ticket business: allowing people to come in and to some degree I'd almost say defraud the system. I agree with Senator Chambers. I don't think it's wrong for anybody to make money. Especially when I'm putting up money on a concert, I expect to make a profit on the concert that we promote. There's a strategy that goes into it when we book an act. In the case of Garth at Ak-Sar-Ben, our tickets back then were \$19, and he didn't want that ticket priced over that because he wanted to make sure his fans were able to come, no different than the shows that we've done with Kenny Chesney at the Qwest Center the last three years. There's actually a discussion that goes in as to what we want the price of that ticket to be so that we can have the fans come. The dilemma that we're seeing in the industry is with technology coming in where people are gathering these tickets; to me, fraudulently jamming the ticket system so that they can get these tickets so that they can resell and take advantage of the consumer, of the fans. One of the things I would point out to the committee here is, without the fans we're going to lose revenue. I'll lose revenue on tickets sales for the artist. Qwest Center could lose revenue. And I think it's important to keep in mind what they were trying to attempt with this bill, I think, was to really try to protect the fans and protect a basis in making affordable tickets available to the residents of Nebraska, and I think that was the intent of what they were trying to do. Whether they've done that or not, I'm not an attorney, but it appears there's definitely some questions with that. [LB1042]

SENATOR LATHROP: Very good. Thank you, Mr. Romeo. Are there any questions?  
Senator Chambers. [LB1042]

SENATOR CHAMBERS: Just one or two. Mr. Romeo, when these tickets are scalped, these concerts wind up being sold out anyway because a scalper is not going to buy up all those tickets if they're not going to be resalable. Now if a price is \$20 for the ticket, the scalper is going to charge \$40--and people are not buying them. Then if the scalper has any sense, the price is going to come down, and it means the scalper miscalculated about how popular that concert would be. Or would the scalper leave it at \$40 and take a complete bath? [LB1042]

ROBERT ROMEO: If I could convert that to real numbers... [LB1042]

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SENATOR CHAMBERS: Sure. Sure. [LB1042]

ROBERT ROMEO: ...so let's say a ticket is going for \$69. [LB1042]

SENATOR CHAMBERS: Okay. [LB1042]

ROBERT ROMEO: Most of the scalpers are selling those tickets for \$500-\$600. The problem I see with it is these scalpers, and unbeknownst to me, are getting premium tickets, and they seem to get premium tickets that I as the promoter necessarily don't have access to. So as a promoter of a show, I'll hold X amount of tickets back for an artist. How do these scalpers get in there, buy these premium tickets? Because you're right, Senator, on the upper bowl tickets it might be a little tougher to sell, but they're selling the premium seats. They're selling third row, fifth row on the floor, and that's where I think the issue comes in and that's what creates even me, as the promoter, being upset. So as a promoter of a show with Kenny Chesney, let's say we bring Kenny in. The gross revenue for the night is \$800,000. I usually make 10 percent of that; expenses off the top, it's a 90/10 split. Truly a scalper who could somehow beat the system, garnish 100 tickets on the floor, truly can make more money than me who is taking the financial gamble on the show, and he's got no risk in that. Furthermore, the state also enacted, several years ago, an entertainment tax withholding, so every show that I promote in Nebraska I have to do withholding from the artist on paid revenue and pay tax on that. Every ticket we sell through the Qwest Center we pay tax on that ticket. Here the scalper is getting these choice seats, selling them, selling them for a huge profit, like I say from a \$64 ticket to \$500, and probably not even paying tax on that money. So as a businessman, I look at that and saying I'm probably a little foolish, I probably should get in the ticket scalping business because it could be a more lucrative business than the promotion business. [LB1042]

SENATOR CHAMBERS: But here's what I keep looking at. You all have created this system. You all have determined that you're going to work with artists to allow the artists to set the price of the ticket. If you've decided to do that and somebody can beat your game, that's because you all put together a loose game that's easy to be beaten. So you're asking the state to make up for the flaws in the system that you all created. [LB1042]

ROBERT ROMEO: The system that we created was one of just simply selling a ticket through a box office. [LB1042]

SENATOR CHAMBERS: Well, then just sell it for all the traffic will bear. If you can sell the tickets for \$500, sell them for \$500. If you have some reason for not selling it for that amount, don't sell it for that amount. But if there are others who will, let them. You're not prohibited from selling the tickets you sell for \$500, if that's what you can get for them, are you? [LB1042]

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ROBERT ROMEO: Not prohibited from doing that. [LB1042]

SENATOR CHAMBERS: Okay. [LB1042]

ROBERT ROMEO: I think I'd like to address that. I still think the issue here is, is the way these people are obtaining these choice seats. I think an artist has a right to try to price a ticket fairly to take care of his fans. It's no different than the digital copyright. It's no different than copyright laws for an act and pricing music. [LB1042]

SENATOR CHAMBERS: But actually it is, because we're talking about not stealing the artist's material, which is protected, but the price for which it's sold. An artist cannot go to the government and say, I want you to give me a license which says I can sell...anybody who sells these tickets to my concert can only sell them for \$50, and I want the government to enforce it. You can't get it. So what I'm saying, some people choose to sell these tickets for more money than others, and isn't that what it boils down to? Others may give reasons: the artist doesn't want it sold for that much, I as a promoter don't want to sell it for that much. So we're really looking only, if we boil it right down to bare bones, some people are willing to sell these tickets for more than others are willing to sell them for. But those who are not willing right now to sell them for that higher price are free to sell them for that price if they choose to, aren't they? And they choose not to. [LB1042]

ROBERT ROMEO: I think you simplify it. I still think the question and the intent here was trying to put some control on the scalpers that are purposely going out through, I say,... [LB1042]

SENATOR CHAMBERS: That's clear. I'm not... [LB1042]

ROBERT ROMEO: ...unscrupulous means, taking these tickets and trying to sell them. [LB1042]

SENATOR CHAMBERS: Look, I'm saying I understand all that you're saying. I understand what you're trying to do. But what I'm not understanding is why you'd expect the Legislature to come into a situation... [LB1042]

ROBERT ROMEO: I think... [LB1042]

SENATOR CHAMBERS: ...where everything is done based on free choice. You can do what the scalpers are doing, if you want to, and take the scalpers out of business because you charge the price that they'd be charging and you'd make the money. [LB1042]

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ROBERT ROMEO: I cannot take the scalpers out of business. I have tried. I don't know how to do it and I think we... [LB1042]

SENATOR CHAMBERS: Well, charge what they charge. [LB1042]

ROBERT ROMEO: Excuse me? [LB1042]

SENATOR CHAMBERS: Charge what they charge. Then you're competing with them instead of at their mercy. [LB1042]

ROBERT ROMEO: Yeah, then we won't sell a show out on Kenny Chesney at \$500 a ticket. [LB1042]

SENATOR CHAMBERS: (Laugh) Okay. [LB1042]

ROBERT ROMEO: And again, they're paying, they're paying that for those premium seats that these scalpers are getting. [LB1042]

SENATOR CHAMBERS: That's all that I have. Thank you. [LB1042]

SENATOR LATHROP: Very good. Thank you, Mr. Romeo. Any other questions? Seeing none, appreciate you coming down today. Are there any other proponents? Are there any opponents? [LB1042]

ROGER DIXON: (Exhibit 15) Thank you, members of the committee. My name is Roger Dixon, spelled D-i-x-o-n. I'm president and CEO of Qwest Center Omaha. I'm here today to testify in opposition to LB1042. Thank you for allowing me this opportunity. Let me begin by providing you a quick update on Qwest Center Omaha, an overview of the things we have put in place to help address the scalping issues, our concerns with the legislative process, and then I would be happy to answer any questions you may have. The Qwest Center has been open since September of 2003. It is successful because it has a strong public-private partnership between the city, the state, and private entities. I'd like to take this opportunity to thank the Legislature for its support of the facility and acknowledge the role of a key player, Brad Ashford, Senator Brad Ashford, who had an idea and a vision which he never gave up. The Qwest Center Omaha is catching national attention. Pollstar magazine's 2007 concert ticket sales rankings placed Qwest Center Omaha 5th in the United States; 18th in the world in ticket sales. It keeps the action going with 105 event days of concerts, family shows, sporting events, and other shows, and hosted over 1.2 million guests last year alone. This year, Qwest Center Omaha will attract national coverage for the NCAA men's basketball first and second rounds, the U.S. Olympic Team trials for swimming, and the 2008 NCAA women's volleyball championship. In short, it is a huge success. It is helping place Nebraska in the national spotlight--and it's working. We thank the state for its important role. The

issue before us today has to do with the age-old issue of ticket scalping, which has been around for decades. It not only impacts the concert industry, but many other industries as well. For those of you who are unaware, scalping is a scalper selling tickets above face value. The extra money goes straight into the scalper's pocket. The artist, the promoters, and the venues receive nothing extra. Scalping has changed a bit in that it has gotten more high tech, just as the world has gotten more high tech. It drives those of us in the industry crazy. While the scalping of tickets is a problem, it is not as common as you may think. Since the opening of Qwest Center 2003, only six shows, which include U2, Paul McCartney, Hannah Montana, sold out within an hour. Promoters of two other quick sellouts, Kenny Chesney, and Tim McGraw and Faith Hill, added second shows shortly after their first show sold out. Well over 90 percent of the time, everyone who wants a ticket, is available to purchase a ticket. Senator Howard and I have met to discuss concerns we both share over this issue, and I thank her for her willingness to meet and allow us to share our viewpoint. We outlined the things we have in place to help alleviate scalping problems and I'd like to share those with you today. Scalping tickets on Qwest Center Omaha property is illegal and we monitor that closely. Scalpers pay a number of people to stand in line, box office lines, before tickets go on sale, so we use a random lottery system to ensure that everyone in line has an equal chance of getting tickets. In an effort to reduce on-line scalping efforts, Ticketmaster customers must type in a random type of letters which are used to block the automatic dialers. A software company recently created programs used by scalpers to circumvent this system, so Ticketmaster has gone to federal court and is meeting with law enforcements in many states, including Nebraska, to try and ban this attempt to beat the system. There are representatives here today from Ticketmaster who can address this process. We have quietly taken another step against scalpers. When extremely popular concerts, such as Bruce Springsteen, go on sale, the first 15 minutes are restricted to customers within zip codes that are within Nebraska, Iowa, Kansas, South Dakota, and Missouri. This stops scalpers from miles away to place and buy prime seats. If there is a solution out there that would not hurt Nebraska in its ability to complete, we would be supportive. This is not an issue unique to Nebraska. Many states that try to legislate solutions have found untended consequences such as time-consuming and often ineffective enforcement by law enforcement, and scalpers operating outside the state's jurisdiction. Several states have actually taken legislation off the books. Missouri just dropped it. Minnesota, Pennsylvania, New York, Connecticut, Florida, South Carolina, Louisiana, and New York did it a year or so ago, and Massachusetts and New Jersey are considering removing theirs. [LB1042]

SENATOR LATHROP: Roger, can we get you... [LB1042]

ROGER DIXON: Thank you. [LB1042]

SENATOR LATHROP: ...to summarize it up? [LB1042]

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ROGER DIXON: Okay. Basically, we're concerned that this is going to impact our competitiveness within the industry. And be happy to answer any questions. [LB1042]

SENATOR LATHROP: Appreciate it. I appreciate you coming down here today too. See if there's any questions. Senator Chambers. [LB1042]

SENATOR CHAMBERS: Just one. Mr. Dixon, are you in the employ of, are you complicit with or in cahoots with ticket scalpers? [LB1042]

ROGER DIXON: I am not. [LB1042]

SENATOR CHAMBERS: Okay. That's all I have. Thank you. [LB1042]

SENATOR LATHROP: Senator Pirsch. [LB1042]

SENATOR PIRSCH: Mr. Dixon, I'm sorry. Do you hear from...obviously, a lot of acts go through the Qwest Center there. Are you hearing a lot of complaints from the artists at all regarding this at all? [LB1042]

ROGER DIXON: Senator, I can tell you that there's always been complaints about the resale of tickets. It goes back through the 30 years I've been in the business. But as far as anybody picking up the phone and calling, we got to push this legislation through, no. No. And there's a number of artists who take their own steps to correct this. Some are successful; some are not. [LB1042]

SENATOR PIRSCH: Okay. Thank you. [LB1042]

SENATOR LATHROP: Thank you. [LB1042]

SENATOR CHAMBERS: Just tailgating on Senator Pirsch,... [LB1042]

SENATOR LATHROP: Oh, I'm sorry. Wait a minute. [LB1042]

SENATOR CHAMBERS: ...has any artist said that because of the scalping situation in Omaha they will not have a concert at the Qwest Center and that was given as the reason? [LB1042]

ROGER DIXON: To this date, no, sir. [LB1042]

SENATOR CHAMBERS: Okay. [LB1042]

SENATOR LATHROP: Okay. [LB1042]

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ROGER DIXON: Thank you. [LB1042]

SENATOR LATHROP: Think that's it. Thanks, Roger. Other opponents? [LB1042]

TRICIA McCOY GONYO: Members of the committee, my name is Tricia McCoy Gonyo. I'm the general manager for Ticketmaster, representing Iowa, South Dakota, and Nebraska. I'm here today to testify in opposition to LB1042. Thank you for allowing me this opportunity. First and foremost, I would like to thank Roger Dixon and the folks at the Qwest Center for the amazing work that they have done and continue to do in bringing live entertainment to the state of Nebraska. Roger has made the Qwest Center a nationally recognized venue and a must-play stop on many national tours. Next, I would like to thank you for your interest in our industry. We recognize how passionate fans are about the live entertainment industry. From our perspective, it is more important for the public to understand our business a little better. Ticketmaster is committed to ensuring fair and equitable access to tickets that our clients provide to us to supply to the public on their behalf. Therefore, we have led the way in the fight against unethical and illegal use of automated computer programs or software that can, in fact, allow users to cut to the beginning of the line. At our clients' requests, we impose and enforce maximum-per-ticket ticket limits. Additionally, we have extensive security features to prevent automated software or bots from enabling unfair access to our tickets. We know that the ticket resale industry, in particular the Internet ticket resale industry, is here to stay. Simply stated, fans have spoken and they want choices. This includes, in many cases, resold tickets above face price. More specifically, we do not believe that laws of supply and demand and basic market economics can be legislated away. Imposing artificial price caps on ticket resale will simply drive the resale market underground, with resale provided to those willing to break the law. Responsible industry players, those who are committed to upholding consumer protection and respecting the law, will effectively be excluded, and fans will be far more vulnerable to exploitation than they are now. Furthermore, the trends for the state...the trends of the laws across the state are actually going in an opposite direction. As Roger spoke, only a handful of states--North Carolina, Arkansas, Massachusetts, and New Jersey--currently have resale caps, with Massachusetts and New Jersey actively looking to lift their cap. Rather than seek legislation against consumer and market behavior, together with our clients we at Ticketmaster are committed to providing fans with the most secure and reliable access possible to tickets, including resold tickets at the price they are willing to pay in fully transparent transactions. Furthermore, we respect and appreciate Senator Howard's interest in the ticketing business and providing Nebraskans access to tickets at a fair price. We believe, though well-intended, LB1042 is in fact harmful and could significantly damage the Nebraska live entertainment industry. [LB1042]

SENATOR LATHROP: Thank you. Are there any questions? Oh, Senator Pirsch. [LB1042]

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SENATOR PIRSCH: Just briefly, I appreciate your coming down here to testify. And Ticketmaster is only in the primary sales market. You have agreements with the acts themselves, so to speak, about selling the tickets, correct? [LB1042]

TRICIA McCOY GONYO: We actually contract with the venues. We have a contract with the Qwest Center Omaha for the primary market as well as the secondary market. We have recently, two years ago, gotten into the resale market where we allow our fans to come on to Ticketmaster.com, type in their bar codes so that the original ticket is voided, and resell their ticket at the price that they choose, as long as it follows state, city, county resale laws. [LB1042]

SENATOR PIRSCH: Very good. You know, and I just had a question. You've probably worked with several state...or have... [LB1042]

TRICIA McCOY GONYO: Uh-huh. [LB1042]

SENATOR PIRSCH: ...you know, have a pretty good idea about the survey of the states and how they approach this issue. Is there any paradigm or any state that's tried something along the lines of what Senator Chambers had been talking about, to allow for, you know, the free sale of tickets at the price the market would bear, and then perhaps followed up by--and I don't know if this would be feasible or not, but if it exists in other states--some sort of rebate for those who, if the acts are interested, and then the day of the show, you know, somehow providing a rebate or something that can back it off on the tail end of the transaction? Was that tried anywhere? [LB1042]

TRICIA McCOY GONYO: I'm not aware of that going on anywhere. My question back would be I don't know that that's...you could monitor that because there are so many players. As Senator mentioned, it could just be one person selling one ticket. How would you get that rebate back from a person? [LB1042]

SENATOR PIRSCH: Well, I mean it wouldn't be a rebate back from the person. If you sell the tickets at the original, you know, at the market price... [LB1042]

TRICIA McCOY GONYO: Correct. [LB1042]

SENATOR PIRSCH: ...but then presumably whoever it is who shows up at the concert has paid that inflated cost, that those have been passed along through however many transactions, really doesn't matter, and then to back it off at that point in time, whoever shows up was...had to have had the extra price passed along over and above what the act wanted... [LB1042]

TRICIA McCOY GONYO: Uh-huh. [LB1042]

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SENATOR PIRSCH: ...the price to be. And then through some sort of rebate, maybe those rebates could be monitored. But I was just wondering... [LB1042]

TRICIA McCOY GONYO: Yeah, I don't... [LB1042]

SENATOR PIRSCH: ...is there anything out there that attempts to do something similar? [LB1042]

TRICIA McCOY GONYO: Not anything that I'm familiar with. [LB1042]

SENATOR PIRSCH: Okay. Yeah, that was just kind of a musing there. I appreciate it. [LB1042]

TRICIA McCOY GONYO: No. Fair enough. [LB1042]

SENATOR LATHROP: Senator Chambers. [LB1042]

TRICIA McCOY GONYO: Sir. [LB1042]

SENATOR CHAMBERS: I want to...I'm very interested in this area. [LB1042]

TRICIA McCOY GONYO: Okay. [LB1042]

SENATOR CHAMBERS: When was the last time Ticketmaster sold tickets to a sideshow? [LB1042]

TRICIA McCOY GONYO: To a sideshow such as...? [LB1042]

SENATOR CHAMBERS: A sideshow. [LB1042]

TRICIA McCOY GONYO: A small club show or an outdoor show? I mean... [LB1042]

SENATOR MCGILL: Man with three heads. (Laugh) [LB1042]

SENATOR CHAMBERS: Well, like at a circus. Well, like my colleague said, a man with three heads or something like that. Has Ticketmaster handled any of those? [LB1042]

TRICIA McCOY GONYO: Oh, I mean, we handle everything from small clubs with 100 seats to outdoor venues with 50,000 seats. [LB1042]

SENATOR CHAMBERS: How about a carnival? Have you sold any carnival tickets? [LB1042]

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TRICIA McCOY GONYO: I've not personally sold any carnival tickets. I've sold state fair tickets. Does that...is that close enough? [LB1042]

SENATOR CHAMBERS: Well, no, that's...I'm interested in some of the things they want covered with this legislation. [LB1042]

TRICIA McCOY GONYO: Oh. [LB1042]

SENATOR CHAMBERS: And I didn't see where some of these would pose a problem, but since they're in here, if somebody scalped a sideshow ticket then the whole panoply of things in this law would come into play on that person. Now you are in an industry where scalping occurs. Has it harmed your business, in terms of maybe making it more difficult for you to operate? [LB1042]

TRICIA McCOY GONYO: Actually, no. We are not in control of the ticket price. The ticket price is provided to us from the venue/the promoter. We sell each seat at whatever ticket price they tell us. What we did as a company is by seeing that the secondary market is out there and it was causing problems, people were purchasing tickets that either did not exist, were fake, or sold multiple times, we created a product that would ensure the legitimacy. With that Ticketmaster brand, it gives someone that extra security that, okay, I can purchase it as a primary ticket from Ticketmaster, I can also purchase a secondary ticket from Ticketmaster. I know that as a consumer I would be more apt to purchase from a well-known, reputable brand. [LB1042]

SENATOR CHAMBERS: But in the struggle between the scalpers and an operation like Ticketmaster, it could be like a technology or technological arms race where you make a move, they circumvent it,... [LB1042]

TRICIA McCOY GONYO: Uh-huh. [LB1042]

SENATOR CHAMBERS: ...then you have to try to counter them and it's going to be ongoing. It seems to me you're saying, as long as these kind of concerts and other activities are available and some people are willing to pay much more... [LB1042]

TRICIA McCOY GONYO: Uh-huh. [LB1042]

SENATOR CHAMBERS: ...than face value of the ticket, there will be people trying to find a way to get tickets and sell them for more than that face value. [LB1042]

TRICIA McCOY GONYO: Correct, and we just do everything we can to stay ahead of the curve for our clients and create products and processes that make everything as fair and equitable as possible. [LB1042]

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SENATOR CHAMBERS: And this could even be found by analogy in the IRS Code, which is very thick and very complicated. Because every time a rule or regulation may be put in place, a clever person, not necessarily a lawyer, will find a loophole and they'll either go over it, then the code builds a higher wall. Then they go around it; they make it wider. Then they go under it; they make it deeper. Then they go through it, so they make it thicker. So there's always this tension between those who establish a system and those who try to beat it. And I said all that to get to this question. If I understand Mr. Dixon's testimony and yours, isn't not the kind of thing which legislation, however well-intentioned or how carefully drafted, is going to put an end to this activity that's going on, known as scalping. [LB1042]

TRICIA McCOY GONYO: That is correct. [LB1042]

SENATOR CHAMBERS: Okay. That's all I would have. Thank you. [LB1042]

TRICIA McCOY GONYO: Thank you. [LB1042]

SENATOR LATHROP: Okay. [LB1042]

TRICIA McCOY GONYO: Okay. [LB1042]

SENATOR LATHROP: Any other questions? Seeing none, thanks for coming down. [LB1042]

TRICIA McCOY GONYO: Thank you. Yep. [LB1042]

SENATOR LATHROP: Appreciate it. [LB1042]

KIM ROBAK: Senator Lathrop and members of the committee, my name is Kim Robak, R-o-b-a-k. I'm here today on behalf of eBay, in opposition to LB1042. eBay is a company that connects hundreds of millions of people around the world every day through e-commerce, global e-commerce, over the Internet. We eBay companies include PayPal, [Skyshopping.com](http://www.skyshopping.com), and a company that's been referenced this morning, StubHub. I want to point out two things--first of all, the reason for scalping laws, to begin with. Scalping laws were created about the turn of the last century, and the reason they were created was twofold. One is that there was actually price setting going on where there were specific prices, collusion between the various artists about what prices were going to be set. And then secondly, actually there were counterfeit tickets, tickets misrepresenting the seats where the tickets were going to be, and the only way that you could actually assure that you had the ticket that you really wanted was to actually go to the event site, go to the concert, go to the carnival site and actually get the ticket. So there was...legislatures decided to implement scalping laws to prevent the resale of tickets, which would prevent those counterfeit-type tickets of being sold, so you would

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be guaranteed that you had the ticket that you purchased. Actually, since the advent of the Internet and since the advent of modern communications, the barriers to these types of information have almost disappeared and the reason for those scalping laws don't exist today, in addition to which early in the 1900s the Sherman and Clayton Acts also prevented collusion on price setting. So today we actually have a primary market through both the event center itself or through legitimate primary ticket sellers, such as Ticketmaster, and we have a very big secondary market through companies like StubHub or Ticket Express or now Ticketmaster has their own secondary market. And what's happened is that they've actually created a National Association of Ticket Brokers and it's an industrywide group that tries to create ethical rules and procedures to protect the public. They work with state and federal legislators and law enforcement agencies. My second point would only be that if you pass this legislation, it doesn't solve the problem that is attempted to be solved today. Ticket scalping will continue; it just won't be in the limelight. It will be underneath the ground. People will figure out a way to spend enough money to buy the ticket if they really want it. It just won't be out in the open where we actually can have some law enforcement and some mechanisms to protect the public. [LB1042]

SENATOR LATHROP: Okay. Thanks, Kim. Are there any questions? Doesn't look like it. Thank you. [LB1042]

KIM ROBAK: Thank you. [LB1042]

SENATOR LATHROP: Next opponent. [LB1042]

CHAD CARR: (Exhibits 16 and 17) My written remarks are a little bit longer than my three minutes that I have, but I'd encourage you to take a look at them at your convenience. [LB1042]

SENATOR LATHROP: Why don't you give us your name and spell your last name for us? [LB1042]

CHAD CARR: Absolutely. Honorable senators, my name is Chad Carr, C-a-r-r, 14710 Emiline Street, Omaha, Nebraska, 68138. I'm president of Ticket Express, a small business that I started in 1992 in the living room of my home in Lincoln. I never imagined that in 15 years Ticket Express would have grown into a business that employs six hardworking, taxpaying Nebraskans. If you pass this bill, we'll all lose our jobs. If your desired outcome is to stop the secondary ticket sales in Nebraska, this bill will not do it. If your desired outcome is to decrease the cost of tickets for the citizens of Nebraska, this bill will not do it. This bill will put a legitimate, taxpaying business out of business and allow more underground, nontaxpaying businesses to flourish. As such, I'm here in opposition of LB1042. In the past 15 years, there have been few events that have generated the demand for tickets like the Hannah Montana show at the Qwest

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Center last year. Senator Howard has indicated that one of the reasons that she introduced this legislation was that normal fans did not have access to tickets at face value when the concert went on sale to the general public. Many people came to the conclusion that ticket brokers had all the tickets. We didn't. In fact, AEG, the promoter, held back thousands of tickets from the general public on the very first day they were available. Why would they do this? They wanted to create the illusion of an immediate sellout. AEG later released some of these tickets just a few weeks before the concert in a very complicated and time-consuming lottery system. In the sale of tickets there aren't any guarantees. Being a ticket broker has the same risks as any small business. Ticket Express does not make a profit on every transaction. If we obtain too many tickets for an event there's the possibility the tickets will go unsold. There's also the possibility that the demand for the event may become so great we might have to purchase tickets at an amount higher than the guaranteed price quoted to our customers. That's exactly what happened to Ticket Express with Hannah Montana. As a result, Ticket Express lost over \$17,000 on the Hannah Montana show in Omaha, Nebraska. Today's amendment, AM1806, only makes matters worse. Senator Howard gives promoters the right to sue anyone who sells tickets in excess of 50 percent. I'm providing you each with a handout that shows how AEG, Hannah Montana's promoter, held back 108 tickets from the general public in the first 14 rows on the floor and then auctioned them off on Ticketmaster's TicketExchange. As you can see, some of the tickets sold for as much as \$750 each, with the average ticket selling for \$424, which netted AEG and Hannah Montana \$39,752. This is a practice that keeps face value tickets out of the hands of the general public. And under AM1806, AEG would face no repercussions unless, of course, they decided to sue themselves. One of the basic principles of economics is that competitive markets generate price movements to bring quantities demanded into balance with quantities supplied. LB1042 will not eliminate the secondary ticket market in the state of Nebraska. Nebraskans will choose instead to buy tickets from companies located outside the state. I hope you will vote against LB1042. Thank you for allowing me to speak today. Be happy to answer any questions that you might have or meet with you individually to discuss my business further. Thank you again for your time. [LB1042]

SENATOR LATHROP: Thank you, Mr. Carr. [LB1042]

CHAD CARR: You bet. [LB1042]

SENATOR LATHROP: Let's see if there's any questions. Any senators have questions? I do have one,... [LB1042]

CHAD CARR: Yes. [LB1042]

SENATOR LATHROP: ...after listening to this, this afternoon. Do you have a device, your business have a device, that you can get into the computer system and get yourself ahead of the...some mom trying to buy a ticket for their daughter? [LB1042]

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CHAD CARR: No. I think that that's... [LB1042]

SENATOR LATHROP: Don't employ any device like that? [LB1042]

CHAD CARR: No. We... [LB1042]

SENATOR LATHROP: Is there...are there...is there such a device that's available?  
[LB1042]

CHAD CARR: I've heard there's been a lawsuit that has been filed in the state of California against a company. I'm not really familiar with that suit and I believe that Senator Rogert's bill, which I think is going to be heard later on today, kind of addresses that very issue. [LB1042]

SENATOR LATHROP: So just to understand your business, your business is what you get on the computer like everybody else and you just happen to have more luck getting the tickets? [LB1042]

CHAD CARR: We have the same access as anybody else as far as tickets are concerned, and with the Hannah Montana show, I mean that was one of the...that was kind of the catalyst for this proposed legislation. We purchased, ourselves, a total of about 32 tickets because they were just not available when it went on sale to the general public. [LB1042]

SENATOR LATHROP: I understand Hannah Montana. I'm just trying to understand your business. [LB1042]

CHAD CARR: Sure. Absolutely. [LB1042]

SENATOR LATHROP: ...and the issue is bigger than Hannah Montana, be my guess. And my question has to do with the processes you employ to get these tickets. You said you have the same access. So what do you do, have...do you have a network of people and they all get on the Internet at the same time and... [LB1042]

CHAD CARR: Due to the competitive nature of our industry, I would be happy to meet with any of you individually at a later time to discuss the specifics of... [LB1042]

SENATOR LATHROP: Okay. You're...I understand. [LB1042]

CHAD CARR: Yes. [LB1042]

SENATOR LATHROP: You're saying that's proprietary, but... [LB1042]

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CHAD CARR: Right. [LB1042]

SENATOR LATHROP: ...you don't employ any kind of a program or anything like that that takes you to the front of the line... [LB1042]

CHAD CARR: We do not have... [LB1042]

SENATOR LATHROP: ...or otherwise makes it more difficult for the mom trying to buy tickets for their daughter. [LB1042]

CHAD CARR: I mean we have desktop workstations in our office that have high speed Internet access, but we do not have a program like you're speaking of. [LB1042]

SENATOR LATHROP: Okay. That's what I wanted to ask you. [LB1042]

CHAD CARR: Okay. Great. [LB1042]

SENATOR LATHROP: Has that provoked any other questions? [LB1042]

SENATOR CHAMBERS: Not from me. [LB1042]

SENATOR LATHROP: All right. Thank you. [LB1042]

CHAD CARR: Thank you. [LB1042]

SENATOR LATHROP: Are there any other persons that want to testify in opposition? Is anyone here in a neutral capacity? Senator Howard. [LB1042]

SENATOR HOWARD: I just...I want to take just a moment to thank all of you for all the time that you've given on this issue. I know...I know we all have a lot to do and I really do appreciate that you've been here, you've listened, you've asked really good questions. And I think we've all...I certainly have learned more. For me, I came into this clearly, simply as an issue of fairness. I think there's some things here that we can improve, come things we can deal with. We'll continue to work on it. And I thank you. [LB1042]

SENATOR LATHROP: Thank you, Senator Howard. Oh, I'm sorry. [LB1042]

SENATOR CHAMBERS: Just one thing. Senator Howard, by you bringing this, I think this hearing probably brought a lot of information to the public at large, at least those who were aware of the hearing and followed it, that otherwise would not have been available. I learned a lot, so I thank you for bringing it. You gave me an opportunity

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show how compassionate my conservatism is also. (Laughter) [LB1042]

SENATOR HOWARD: And I really appreciate you saying that. Thank you. [LB1042]

SENATOR CHAMBERS: Okay. [LB1042]

SENATOR LATHROP: Very good. (See also Exhibits 31, 32, 33, and 34) That will close our hearing on LB1042 and bring us to LB1032 and, I think, Senator Rogert on a related subject. [LB1042]

SENATOR ROBERT: Senator Lathrop, members of the Judiciary Committee, my name is Senator Kent Rogert. I represent the 16th Legislative District. Here's a little different, more narrow angle than what we've heard this afternoon. Mr. Romeo and Mr. Dixon have mentioned this issue in their testimonies. LB1032 seeks to make it a crime for persons to engage in using computer software designed to circumvent security mechanisms implemented by a primary ticket-issuing agency to prevent the nonmanual purchase of tickets through automated systems. Upon entering in pertinent information to purchase an individual ticket or limited amount of tickets, a shaded box will present itself with characters or combinations of numbers and letters for a person to type out as seen on the screen. This ensures that the purchaser of a ticket is indeed present and accountable for the transaction. This is a security feature known as a CAPTCHA. Without it, a multitude of information could be entered in simultaneously to purchase bulk amounts of tickets while pushing back the average consumer with automated software. It is possible for a company to design, market and sell computer software that would be able to bypass these security mechanisms and simultaneously purchase massive amounts of tickets at the expense of the ticket-issuing agency, the artist or the entertainer, and the consumer. And for your information, Mr. Carr and Ticket Express does not use this method. He runs a legitimate business. This tool is known as a bot, a broker acquisition tool. U.S. District Court Judge Audrey Collins in L.A. issued a preliminary injunction on October 16 against RMG Technologies from a suit brought forth by Ticketmaster that claimed RMG had violated their policies and terms of use in using such automated software and, as such, as a breach of contract. The senior director of application support at Ticketmaster was able to trace ticket purchases made on a Web site to a few individuals that had used automated software designed by RMG Technologies. Here are some examples. Chris Kovach made over 9,500 ticket orders, and 24,000 over the last several years. Gary Bonner had made around 13,000 purchases over several years and one more...on one day, 425,000 single requests for tickets in one day. Thomas Prior made almost 22,000 ticket orders over several years, and more than 600,000 requests in one single day. Tracing by the senior director of applications at Ticketmaster led to the examination of super proxy log files in Chris Kovach's computer. Adam Lieb, a computer consultant, stated several Web page requests per second were made to Ticketmaster via the proxy from the same source IP address. Thousands of requests were made per day. No human would be able to

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generate that many requests during manual, nonautomated Web browsing. These were automatic requests made by the automated device. As you can see, the individuals using such automated devices can purchase very large amounts of tickets at a regular price, and then turn around and sell them for the higher price, except blocking on-line customers and thereby forcing them to choose the higher priced alternative. Tickets sell fast today because of on-line services, and the artist or venue will typically impose a ticket limit per customer, depending on the type of event and the expected demand for the event. A time limit on each page during the checkout process is imposed on this security feature known as a CAPTCHA, and is implemented to ensure fair and equitable ticket purchasing practices on the Web site. However, with automated software that can circumvent these prevention methods and security mechanisms, perhaps it's time to provide some state recognition and make it a crime to use software that does this, indeed, and have the ability to circumvent and violate terms of use and electronically cut in line or block consumers, robbing them of the supply and demand opportunity to which they're entitled. Missouri, Arkansas, and Pennsylvania are states that have recently examined the use of automatic ticket purchasing, and the Attorneys General offices in these states have been conducting investigation to see if any consumer protection laws have been violated, in response to citizen complaints. The Missouri Attorney General has pursued litigation against three ticket resellers on the violation of their consumer protection laws; the Arkansas Attorney General has pursued the collection of document from five ticket resellers; and the Pennsylvania Attorney General's Office is currently conducting their own investigation after having received hundreds of complaints. Another consideration is that those tickets may not always be resold at its higher inflated price, which may leave an arena or concert with many empty seats, or narrow the playing field to only those persons who can afford it. This is not a successful event in terms of turnout. Artists, entertainers and sport teams need the consumers and loyal clientele to come see their events in order to promote and actualize the very practice and purpose of their professionalism. But even more importantly, the ticket broker has an unfair competitive advantage in using circumvented automated software to achieve their means and leap head of the average consumer and citizen, obstructing those who are, by and large, legitimately interested in purchasing, acquiring, and actually utilizing those tickets. I will entertain any questions you may have, and thank you. [LB1032]

SENATOR LATHROP: Are there any questions for Senator Rogert? I do have some. This is an interesting subject to me, or an interesting twist on the whole people getting ahead of the regular guy trying to buy tickets. [LB1032]

SENATOR ROGERT: Yeah. [LB1032]

SENATOR SCHIMEK: These devices, are they able to read those? What you're talking about is a shaded box and you have to type in the figures and it might be a C but it would be a curvy C or... [LB1032]

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SENATOR ROBERT: Yeah. I think there's several ways that these devices have been evolving over the past couple, three years. One way I know is that they may have several people in the room, and this...what it does is it locks up a series of about 1,000 or 1,500 tickets with that first request, and that, at that point, takes you to every one of their systems having the shaded box. And they can enter in the characters and their credit card numbers as fast as they can, meanwhile still locking up maybe 1,000 or 1,500 other seats. And they may only be able to buy 25 or 30 at a time, or 50 or 100, but they're still locking 1,000, 1,500 seats up. At that point, after the three-minute time limit that Ticketmaster has set up for you to make your purchase, it will dump you out and it goes back, and those seats will go right back into the system. They'll recommit those 1,500 new seats and buy another 100-seat block. So you're not able immediately to buy those all at once. Another way I've seen, I have some information that shows that they can pay a pile of...a big, huge roomful of people in another country a couple bucks an hour to sit there and wait for this and just enter all this information in really fast as they hold them up, and that seems to be successful as well. [LB1032]

SENATOR LATHROP: Okay. But what they're using is a program that allows them to...does it allow them to get ahead in line? [LB1032]

SENATOR ROBERT: It allows them to lock seats out so others can't get them while they're waiting. [LB1032]

SENATOR LATHROP: But... [LB1032]

SENATOR ROBERT: Not that I know of that it gets you ahead in line. [LB1032]

SENATOR LATHROP: But if I'm making a call to try to get a Hannah Montana ticket and they're making the call, they don't necessarily get ahead of me but once they're...once they come up, then they can essentially monopolize 1,500 tickets. [LB1032]

SENATOR ROBERT: I believe that's true, yeah. Yeah. [LB1032]

SENATOR LATHROP: Is that going on with events in the Qwest? [LB1032]

SENATOR ROBERT: Not necessarily on a regular basis, but I believe it could be. I do know that... [LB1032]

SENATOR LATHROP: You gave us some names...you gave us some names a few minutes ago. Are those local people that are doing this? [LB1032]

SENATOR ROBERT: Those are not local people, only because we haven't...we haven't really gone in to find out whether...we haven't had a significant amount of complaints about that version. [LB1032]

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SENATOR LATHROP: Okay. [LB1032]

SENATOR ROBERT: But it can be folks from...I do know that there have been a couple instances where we've been able to shut these things down before they do lock us up, and I also know that--and I don't have the names and I won't give them--but I do know that there are five or six resellers for sure in the state that have these technologies available. Whether they're using it on the Qwest Center or not, I don't know. [LB1032]

SENATOR LATHROP: Okay. Thanks, Kent. Any questions for Senator Robert? Seeing none,... [LB1032]

SENATOR ROBERT: Okay. [LB1032]

SENATOR LATHROP: ...thank you. Are there proponents to LB1032? Proponents? Is there anyone here to testify in opposition to LB1032? [LB1032]

ROBERT DIXON: This will be brief. Thank you. My name is Robert Dixon, spelled D-i-x-o-n. I'm president/CEO of Qwest Center Omaha and here today to testify against LB1032. We have met with Senator Robert and appreciate the angle and approach he is taking. As we stated before, we ask the committee to consider the following questions: Will this impact Nebraska's ability to attract events? Will this be enforceable? In other words, will it work? With that, I'd be happy to answer any questions. [LB1032]

SENATOR LATHROP: Are there any questions in response to those questions? Seeing none, I think we got your point. Thanks, Robert. [LB1032]

ROBERT DIXON: Thank you. [LB1032]

SENATOR LATHROP: Anyone else in opposition? Anyone here care to testify in a neutral capacity? [LB1032]

TRICIA McCOY GONYO: Hello. Once again, Tricia McCoy Gonyo from Ticketmaster. We are appreciative and respectful of Senator Robert's interest in fighting for Nebraskans and all fans' fair access to tickets. We do not take a position on the legislation, as from our perspective we have found that we have been able to seek redress through civil courts and, therefore, believe that existing laws offer a means to address this problem, but we certainly do not oppose such laws as LB1032 that seek to strengthen these existing protections. [LB1032]

SENATOR LATHROP: Thank you. Any questions? Seeing none, thank you. Anyone else in a neutral capacity? [LB1032]

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KIM ROBAK: Senator Lathrop, members of the committee, my name is Kim Robak, R-o-b-a-k. I'm here today on behalf of eBay in a neutral capacity on LB1032. This particular piece of legislation doesn't affect StubHub or eBay because we are not a ticket broker, nor do we deal with the primary sale of tickets. We deal with the secondary market. So we think it's a good idea. We think it is a good step to move in the direction to prevent some of the sales...the large purchases of tickets, but it doesn't affect the industry that we represent. [LB1032]

SENATOR LATHROP: Okay. Thanks, Kim. Oh. [LB1032]

SENATOR CHAMBERS: I have seen where, on eBay, there would be sold potatoes that look like the Virgin and the Child, (laughter) and a piece of toast or something. [LB1032]

KIM ROBAK: I think it was toast. Toast. [LB1032]

SENATOR CHAMBERS: Well, I was trying to draw a picture of George Washington and it came out looking like Abraham Lincoln and I just wondered if eBay might be interested in that. (Laughter) [LB1032]

KIM ROBAK: Senator, I will visit with you and show you how we can get it sold on eBay. [LB1032]

SENATOR CHAMBERS: Thank you. [LB1032]

SENATOR LATHROP: Thanks, Kim. Anyone else in the neutral capacity? Senator Rogert waives close. That closes our hearing on LB1032. Next is LB764 and that brings us to Senator Cornett. [LB1032]

SENATOR CORNETT: (Exhibits 18, 19, 20, and 21) Good afternoon, members of the Judiciary Committee. I am Abbie Cornett and I represent the 45th Legislative District. I am here to introduce LB764. LB764 is about the well-being of animals. There are certain events being held that are dangerous to animals. One of these is horse tripping. Horse tripping is a term which refers to the practice of roping a horse by the front legs with the intent of causing it to fall. This is inherently dangerous to the animal. Since the animal is running at a high speed and are then lassoed around the legs, they cause injuries. These injuries consist of broken bones, rope burns, and lacerations from being whipped. This bill also addresses the practice of steer tailing, in which a steer runs at full speed down a chute. The steer is pursued by a cowboy on horseback who grabs the steer's tail, wraps it around his stirrup or boot, and veers off. This causes the steer to fall, crashing to the ground. In a steer, the tail is an extension of the bovine spinal column and consists of the same muscles, vertebrae and nerves. There is quite a bit of pain which could be involved in this event. I have an amendment that I would like to give

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the committee, which I believe will clarify the bill further. I have been working closely with the Nebraska Humane Society and believe they are here to give you some examples of the different types of calls they have handled and are part of the reason this bill is here before you today. I have letters from people who were not able to attend the hearing. They are from the Nebraska Farm Bureau Federation and the Humane Society of the United States. I would thank you for your time and consideration on LB764, and I would be happy to answer any questions for you. [LB764]

SENATOR LATHROP: Are there any questions for Senator Cornett? Seeing none, thank you. [LB764]

SENATOR CORNETT: Thanks. [LB764]

SENATOR LATHROP: Those who wish to testify in support? [LB764]

KRISTIE BIODROWSKI: Thank you for this opportunity today. My name is Kristie Biodrowski. I am the lead cruelty investigator for the Nebraska Humane Society located in Omaha, Nebraska. [LB764]

SENATOR LATHROP: Kristie,... [LB764]

KRISTIE BIODROWSKI: Yes. [LB764]

SENATOR LATHROP: ...we better have you spell your last name. [LB764]

KRISTIE BIODROWSKI: (Exhibit 22) Okay. It's B-i-o-d-r-o-w-s-k-i. Okay. We provide care for over 25,000 animals a year as both a Humane Society and as Animal Control. We service Omaha, seven municipalities, as well as Sarpy County. We respond to requests for assistance in investigating and prosecuting animal abuse and neglect cases from law enforcement throughout the state. Horse tripping and steer tailing are two events in a Charreada or Mexican rodeo. The mangana and the piales are what we refer to as horse tripping and the coleadra is what we refer to as steer tailing. During horse tripping, the horse is forced into full gallop of speeds up to 25 miles per hour around an arena or down a chute and then roped, depending on the event, by either the back legs or the forelegs, causing the animal to crash to the ground. The charro is awarded points for bringing the animal to the ground. Broken bones and torn flesh are some of the common injuries. During steer tailing, a steer is sent running out of a chute pursued by a charro. The charro grabs the running steer's tail and wraps it around his bootleg or stirrup. The charro rides off at an angle, dragging or slamming the steer to the ground. Painfully broken tails are often a result, and both the steer and the horse risk broken legs. I would just like to briefly review how horse tripping came to our attention. This past July we received a call complaining about horses being abused. According to the caller, the horse's legs were being roped and the horses were crashing

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to the ground. When we responded to the call, we found five horses in horrible medical condition. Some had rope burns on their front legs. One had an open and untreated gash on its body. They were all extremely thin. Eight men were cited for cruelty to animals on the five horses found that day. All eight men pled guilty to cruelty to animals. You may hear that our existing cruelty laws will take care of these practices. That is not enough. We owe it to the victims--the animals--to do all that we can to stop them from happening in the first place. Interesting, the men in Omaha who pled guilty to cruelty stated they did not know that horse tripping was illegal. We know the sport of horse tripping and steer tailing is on the increase in our state and we need it to stop now. In conclusion, this is not a discussion about outlawing the Charreada. It is about preventing cruelty to animals by prohibiting two out of ten events and upholding the standards we as Nebraskans have set for the humane treatment and care of animals. It has been said that America was built on the back of a horse, and we owe it to these animals that helped to build our nation and to the animals that feed and clothe our families to end this cruelty. It is also important to note that the Omaha City Council voted unanimously in December to ban these events and one or both of these events have been outlawed in seven states and a number of counties and municipalities throughout the country. Please, for the animals who have no voice, move LB764 out of committee and to the floor. Thank you for your time. [LB764]

SENATOR LATHROP: Thank you. And you finished that up perfectly with the red light. [LB764]

KRISTIE BIODROWSKI: Thank you. I tried. [LB764]

SENATOR LATHROP: Are there any questions? I don't see any. Thank you. [LB764]

KRISTIE BIODROWSKI: Thank you. [LB764]

STEVEN WHITE: Thank you for the opportunity to speak with you today. My name is Steve White and I have been a veterinarian in Nebraska for over 15 years. I am a member in good standing of the American Veterinary Medical Association, the Nebraska Veterinary Medical Association, and the American Association of Equine Practitioners. I believe the activities discussed here today, the horse tripping and tail pulling, are inhumane because I have personally treated animals that have been used for these purposes. These animals have cuts, abrasions, and contusions on their bodies. They had rope burns on their legs, and injuries to their tendons and ligaments of their legs. We use in this country for a variety of recreational uses. Rodeos, show jumping, horse racing, and dog racing are but a few of these. Yes, at times accidents happen and injuries occur. Steps are taken though to try to prevent these accidents from happening. However, with the events we are considering today, the design is such that it makes them inherently dangerous to the animal. Rope burns, contusions, torn tendons and ligaments, dislocations, and fractures to the tail, legs, and neck, are but a

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few of the injuries that occur. Horse tripping is sometimes compared to calf roping. If calf roping is done properly, harm to the animal is uncommon. With horse tripping, on the other hand, the horse is chased to a full gallop, then its legs are pulled out from under it and it crashes to the ground, often falling on its head or neck. The horse is a much larger animal than a calf, and runs at a higher rate of speed. The force at which it impacts the rope and the ground is much greater, thus the chance for catastrophic injury and death are higher. Tail pulling is often compared to bulldogging or steer wrestling. With steer wrestling, the steer is handled by the stout head and neck. Also the animal is brought to a stop before it is pulled to its side. However, with tail pulling, the steer is grabbed by the relatively fragile tail and then thrown to the ground at full speed. The impact with the ground, therefore, is much more violent. Laws are needed to prevent these activities from taking place. We cannot leave it upon organizations to regulate them. This would only prevent them from taking place at organized events. It would stop them from occurring at private ranches or arenas. As a veterinarian, it is my professional opinion that these activities directly lead to unnecessary suffering of the animals. I feel they are inhumane and should be made illegal. Thank you for your time, and I am open to any questions that you have. [LB764]

SENATOR LATHROP: Thanks, Doctor. Any questions? Seeing none, thank you. [LB764]

STEVEN WHITE: Thank you. [LB764]

SENATOR LATHROP: The next proponent. [LB764]

ROBERT DOWNEY: (Exhibit 23) Senator Lathrop and members of the committee, my name is Robert Downey, executive director of Capital Humane Society. I'm here in support of this bill. I commend Nebraska Humane Society and Senator Cornett for bringing this forward. Most testimony that I could give would be duplicative of everything you've heard, but I did run across one thing I wanted to point out to you, and urge you to be cautious of. The city of Phoenix, Arizona, is currently considering a ban of this particular activity, and the bill will be introduced in the Arizona state legislature to ban this activity. But a weakness in their bill is that they still allow the legs to be roped of the horse but specify the horse can't be tripped. I found a letter to the editor in the Arizona Republic that was written on January 29, 2008, by Eric Mills. He's coordinator for Action for Animals in the state of California. And he actually cites the Omaha ordinance and how perfect the ordinance is in relation to this particular activity. And so if anybody would come forward and try to change the language of the bill to allow roping without tripping, I would urge you to resist that and not to allow that to happen. [LB764]

SENATOR LATHROP: Very good. Thanks, Doctor. We do have a question from Senator McDonald. [LB764]

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SENATOR McDONALD: Can you tell me how long has this been going on in the state of Nebraska, if you know? [LB764]

ROBERT DOWNEY: I have no knowledge of that. The folks from Nebraska Humane Society would be better versed to answer that question. [LB764]

SENATOR McDONALD: Thank you. [LB764]

ROBERT DOWNEY: You're welcome. [LB764]

SENATOR LATHROP: That looks like no more questions. Thank you. [LB764]

ROBERT DOWNEY: Thank you. [LB764]

LARRY WILLIAMS: (Exhibit 24) Good afternoon. Again, my name is Larry Williams. I'm a veterinarian living here in Lincoln. We believe LB764 is in agreement with the NVMA policies on animal welfare principles, which is under a document titled "Animals Used in Entertainment, Shows, and for Exhibition," and that is at the end of your copy there. We believe the bill also conforms with the senator's statement of intent, stipulating that a person who intentionally trips or causes to fall, lasso, or rope the legs of any equine by means for the purpose of entertainment, sport, practice, or contest, is guilty of a Class I misdemeanor. The NVMA offers this testimony in support of this bill because we, as an animal healthcare profession, are deeply concerned with the welfare of the animals. This concern is expressly stated in The Veterinarian's Oath and animal welfare policies, which are stated in numerous professional documents. The majority of comments offered by the NVMA members, however, were concerned about how this bill would affect domestic rodeos. And while we feel there is no direct effect, there is a concern that unsanctioned events such as community or association team roping could possibly be in violation of the proposed statute. Originally, we agree with the addition of "sanctioned" after "with" on page 4, line 21, believing that it gave credibility to rodeos classified as such. However, after researching sanctioned rodeos on Google--I have to admit we find that there are many rodeo associations in the nation, representing many geographical areas and ethnic groups as well as personal lifestyle preferences--it is perceived that sanctioned events have acceptable animal welfare standards or rules. However, of the sanction rules that I was able to access, I found that most of the sanctioning stipulates rules governing the contestant, including rules of conduct, judging, and point recording, rather than detailing animal welfare issues. Sanction rules are not law. They are merely guidelines by which the group has agreed to conduct itself. Several rules required a veterinarian to be on hand to provide care--and humane death, if necessary--for an animal injured during the rodeo. On the other hand, some sanction rules gives only minimal attention to animal welfare. Although we agree with the intent of the drafters to add "sanctioned," we believe that its addition does not make it clear as to what animal welfare issues are addressed or should be addressed. Also, within the

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same sentence on line 21, animal racing or pulling contests are not required to be sanctioned. And for these reasons, we recommend removing the word "sanctioned" as proposed, and believe that with that small change our association would be in full support of this legislation. [LB764]

SENATOR LATHROP: Very good. Thank you, Doctor. Senator McDonald. [LB764]

LARRY WILLIAMS: Yes. [LB764]

SENATOR McDONALD: Have you seen one of these events? [LB764]

LARRY WILLIAMS: No, I haven't. [LB764]

SENATOR McDONALD: Would they call the veterinarian at the location where the animal is hurt, or do they bring it in to the veterinarian later, or...? [LB764]

LARRY WILLIAMS: Some rodeos do have sanctions that require a veterinarian to be there if they had this kind of a event. Well, if it was one of their sanctioned rodeos, the Professional Cowboy Rodeo Association, PCRA, if a veterinarian is there and the animal breaks a leg, they will attempt to move that animal onto a skid. Some of the sanctions require that there be a skid that's capable of moving a horse or a bull out of sight, and then the animal would be dealt with at that point. If they have to be euthanized, it would be euthanized out of sight of the public. [LB764]

SENATOR McDONALD: Okay. Thank you. [LB764]

LARRY WILLIAMS: Currently, the sanctioned rodeos would not have one of these events that we're talking about. [LB764]

SENATOR LATHROP: Any other questions? Okay. Thank you, Doctor. [LB764]

GREG ARIZA: Good afternoon. My name is Greg Ariza, that's spelled A-r-i-z-a, and I am a county attorney in Douglas County. Prior to my employment in Douglas County, I worked as a Sarpy County attorney for five years. Before attending law school, I also worked as a police officer in the city of Omaha. I come here with 12 years of law enforcement experience and to tell you that this law is definitely needed. This law, we do have a general animal abuse law that I'm sure you're all aware that prohibits cruel mistreatment, cruel neglect of an animal, but it doesn't specify particular acts in it. It's supposed to be a general statute to cover an entire variety of acts. But this is a special situation that needs to be specifically laid out because this type of rodeo is legal in some countries, and when people from those countries come here they may assume that it's legal here. We don't want them to make that assumption. We want them to know that it's illegal here. As our statute states, one of the intents of the criminal law is to give fair

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warning of the nature and the conduct to constitute an offense, and that's why we ask that you enact this statute, to prevent any type of future events in this type of animal cruelty. [LB764]

SENATOR LATHROP: Very good. Thank you, Mr. Ariza. Are there any questions? Seeing none, appreciate you coming down today. [LB764]

GREG ARIZA: Thank you. [LB764]

SENATOR LATHROP: Are there any other proponents? How about opponents of LB764? Anyone in a neutral capacity? [LB764]

ANNE BURKHOLDER: Senator Lathrop, other senators of the committee, it's truly an honor for me to be here today. In the 11 years that I have lived in Nebraska, the state of Nebraska, and animal agriculture has given me and my family so much, it's an honor to be able to come back today and give you something of myself. [LB764]

SENATOR LATHROP: Anne? [LB764]

ANNE BURKHOLDER: Yes. [LB764]

SENATOR LATHROP: Let's have you give... [LB764]

ANNE BURKHOLDER: You need me to spell my name, don't you. [LB764]

SENATOR LATHROP: I need you to give us your name and then spell it for us. [LB764]

ANNE BURKHOLDER: My name is Anne Burkholder, A-n-n-e B-u-r-k-h-o-l-d-e-r. [LB764]

SENATOR LATHROP: Okay. [LB764]

ANNE BURKHOLDER: I'm a firm believer that the person that you are is a big component of where you've been and what your experiences are, so I just want to take a minute to let you know where I come from and why I'm here today. I grew up in West Palm Beach, Florida. My father is an attorney; my mother is an English teacher. I grew up the verifiable city kid. I graduated from high school in 1993 and ended up in Dartmouth College in Hanover, New Hampshire. And I met my husband, a native of Nebraska, there. When we left New Hampshire in 1997, we went back to Cozad, Nebraska, because that was the lifestyle that we wanted to choose. My husband is an engineer and he runs the alfalfa dehydration plant in the town of Cozad, and I ended up in a cattle feed yard. I don't look like a cowboy. One hundred thousand calves later, after caring for them and vaccinating them and doing my job as managing a feed yard, I

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guess I think I am almost a cowboy. I come to you today really not to speak in opposition of this bill at all, because if there is one thing that I have learned in the beef industry in the last 11 years in Nebraska, it is that cattlemen truly respect their animals. They have a personal responsibility and a duty to care for those animals that many times come in front of their own personal feelings and comforts, and so I want you to know that the beef industry in Nebraska supports humane treatment of animals. We're all for it. It's what we need to do. It's the right thing to do. At the same time, I'd like to caution you in your wording of this bill to make sure that you don't take away any common animal husbandry practices that we depend on as an industry. There are many ranchers in this state that ranch on thousands of acres, and so you may have a sick calf that needs treatment at some point that may be miles away from any restraining device. So it's very important for us to be able to retain the ability to rope a sick calf to treat it, and obviously this will be done in a humane way and not at all like what is occurring in the unsanctioned rodeos in the state. But I do caution you to be careful in your wording as you move this bill forward so that we retain the animal husbandry practices that we rely on in order to keep our animals safe and healthy. I would answer any questions at this point. [LB764]

SENATOR LATHROP: Thank you, Anne. Any questions? All right. Thanks. [LB764]

ANNE BURKHOLDER: Thank you. [LB764]

SENATOR LATHROP: Anyone in opposition? Neutral? Did we go through that already? Senator Cornett, come on up and you can close and open on the next bill as you choose. [LB764]

SENATOR CORNETT: In closing, I just want to assure the committee that we are more than willing to work with language in any way to make this bill better. And it is not our intention to limit beef producers or cattlemen in this state in any of the common practices and which some of the veterinarians also use so they can treat cattle. That's why we specifically have cited the rodeo. But again we're willing to work on that language. And Senator McDonald, I talked to the Humane Society, the Omaha Humane Society. The first time they actually became aware of this event was in July of 2007. Before that they did not know that it was occurring in the state. [LB764]

SENATOR LATHROP: Very good. [LB764]

SENATOR CORNETT: Thank you. [LB764]

SENATOR LATHROP: You're up next. That closes our hearing on LB764, and now we move to LB769. [LB764 LB769]

SENATOR CORNETT: Good afternoon, Chairman...never mind, he's not here. (Laugh)

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[LB769]

SENATOR LATHROP: We're all tired. [LB769]

SENATOR CORNETT: (Exhibit 25) Good afternoon, Steve and members of the Judiciary Committee. For the record, I'm Abbie Cornett, representing the 45th Legislative District. As I stated in the opening of the last bill, this is a bill about the well-being of animals. LB769 adds language to Statute 28-1008, which defines mutilation, repeated beatings, torture, and changes the definition of serious injury or illness. Mutilation means intentionally causing permanent injury, disfigurement, degradation of function, incapacitation, or imperfection to an animal. Mutilation does not include conduct performed by veterinarians licensed under the Nebraska Veterinary Practice Act or conduct that conforms to accepted veterinary practices. Repeated beating means the intentional successive strikes to an animal by a person resulting in serious bodily injury or death of the animal. Torture means intentionally subjecting an animal to extreme pain, suffering, or agony. Torture does not include conduct performed by a veterinarian licensed under the Nebraska Veterinary Practice Act or conduct that conforms to accepted veterinary practices. The serious injury and illness section would not include broken bones. The intent of LB769 is to add language which would exclude people convicted of a Class IV felony, under Section 28-1005 or 28-1009, from owning, possessing, or residing with an animal for not less than 15 years from the date of a conviction. If a person violated this subdivision they would be guilty of a Class I misdemeanor. It also adds language which would exclude a person convicted of a Class I misdemeanor under subdivision 2(a) of Section 28-1009 or a Class III misdemeanor under Section 28-1010, from owning, possessing, or residing with an animal for not less than five years of the date of conviction. If a person violates this subdivision they shall be guilty of a Class IV misdemeanor. LB769 would allow for the court to extend the time restrictions if they deemed it reasonable and necessary, and would also allow for persons who need to possess an animal for health such as for health of such person. It has also exclusion for persons who may derive at least 20 percent of their annual income from the sale or resale of animals. I've been working with the humane society on this bill, and I believe they have representatives here who could perhaps answer any questions about technical aspects of this bill. I'd like to thank you for your time and consideration of LB769, and I would answer any questions you have at this time. I am going to waive closing though, I have another bill somewhere else. And I do have a letter from the Humane Society of the United States to pass out. [LB769]

SENATOR LATHROP: Okay. Are there any questions for Senator Cornett? Senator Chambers. [LB769]

SENATOR CHAMBERS: Senator Cornett, I would have a presumption that licensed veterinarians, healthcare professionals and others will perform in accord with the standards of their practice. So I would like something in here, and it wouldn't be difficult

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to do, to indicate that it's not mutilation if it's performed by a veterinarian. You know we get...unless...let me see what the language is. [LB769]

SENATOR CORNETT: I was going to say, I believe that's included. [LB769]

SENATOR CHAMBERS: Say it again? [LB769]

SENATOR CORNETT: I believe that's included in the bill that it would exclude recognized veterinarian practices. [LB769]

SENATOR CHAMBERS: Okay. But it just says mutilation does not include conduct performed by a veterinarian licensed... [LB769]

SENATOR CORNETT: Correct. [LB769]

SENATOR CHAMBERS: ...under the Nebraska Veterinary Practice Act or conduct that conforms. I would want to be sure that anything the veterinarian does, does conform to those standards. [LB769]

SENATOR CORNETT: Oh, I see what you're saying. [LB769]

SENATOR CHAMBERS: Thereby putting the disjunctive, it could mean that if the veterinarian did something that doesn't conform, then it might be okay. But anybody who's not a veterinarian would have to conform. And I'm just wanting to be sure that we...you know how I am. (Laughter) [LB769]

SENATOR CORNETT: Senator Chambers, I always look to you to find the problems in grammar or in the bill itself, even if it's not something you support. And I would be more than happy to accept that amendment. [LB769]

SENATOR CHAMBERS: But I do support the bill, by the way. [LB769]

SENATOR CORNETT: Thank you very much. [LB769]

SENATOR LATHROP: I do have a question. [LB769]

SENATOR CORNETT: Yes. [LB769]

SENATOR LATHROP: What we're doing is if somebody gets convicted of a felony, then they can't have a dog for 15 years? [LB769]

SENATOR CORNETT: If they get convicted of felony abuse to an animal they can't own a dog. [LB769]

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SENATOR LATHROP: Oh. [LB769]

SENATOR CORNETT: No, not a felony, just felony abuse. [LB769]

SENATOR LATHROP: I overlooked that. [LB769]

SENATOR CORNETT: Okay. [LB769]

SENATOR LATHROP: I want abuse in there. [LB769]

SENATOR CORNETT: No, as long as they've been convicted of felony abuse to an animal they can't... [LB769]

SENATOR LATHROP: Okay, that...that. [LB769]

SENATOR CORNETT: ...own an animal. [LB769]

SENATOR LATHROP: Now I got it. All right. I'm trying to read it and run the show. [LB769]

SENATOR CORNETT: All right. Got it. [LB769]

SENATOR LATHROP: Okay. And you're... [LB769]

SENATOR CORNETT: I'm waiving closing. [LB769]

SENATOR LATHROP: We understand that you waived. So we'll let you be excused. Those in support. [LB769]

MARK LANGAN: May I begin? [LB769]

SENATOR LATHROP: You certainly may. Thanks. [LB769]

MARK LANGAN: (Exhibit 26) Thank you, Senator. My name is Mark Langan. I'm vice president of field operations for the Nebraska Humane Society. Nebraska State Statute 28-1009 deals with animal cruelty, and allows for felony prosecution when the cruelty involves repeated beating, mutilation and torture. However, prosecutors in Douglas and Sarpy County have approached me voicing their concerns that these three terms, repeated beating, mutilation, or torture, are not defined in the statutes. The reason these definitions are important can best be illustrated in a case from 2005 when the defendant, in a domestic dispute with his girlfriend, beat their 4-month-old German shepherd puppy to death by striking it numerous times over a period of 45 minutes. He

was charged with felony animal cruelty under the repeated beating concept. It was later learned, however, that a possible defense he was going to use was that the term "repeated beating" actually means beating your dog over a period of days or months, not over a short period of time. The defendant eventually pled guilty and was sentenced to one to two years in prison. I've worked with prosecutors and other attorneys to come up with definitions for repeated beating, mutilation, and torture. I've also used other states' definitions to assist me, specifically Illinois and Oregon. The proposed definitions are found on page 3 of LB769, and Senator Cornett kind of summarized them. This bill also allows judges to restrict animal ownership to those convicted of serious animal cruelty charges. Specifically, the bill calls for a 15-year restriction on a person owning, possessing, or residing with animals if that person is convicted of a felony animal crime, with those crimes being felony dog fighting, 28-1005, or felony animal cruelty, 28-1009. These are crimes that involve a person knowingly and intentionally abusing animals in a felony situation. These are the worst of the worst when it comes to animal cruelty. A great example of where this law could have been used is the case I just talked about regarding the person sentenced to prison for viciously beating his puppy to death. Under this law, he could have been court ordered not to be in possession of an animal for 15 years. The bill also allows a judge to order a person not to own an animal for five years if that person is convicted of certain misdemeanor animal cruelty crimes. These would be the misdemeanor crimes involving defendants who knowingly and intentionally abuse animals and who are found guilty of state statutes dealing with animal cruelty or public indecency with an animal. I want to stress two very important points. This bill is written to specifically target those who knowingly and intentionally cause harm to an animal whether in a felony or misdemeanor situation. Secondly, exceptions have been included in cases where a sentencing judge sees a need for the defendant to still possess animals. Those exceptions are if a licensed physician determines animals to be essential to the defendant's health, or (2) if the defendant realizes at least 20 percent of his or her income from the sale or animal or animal products. The animal ownership restriction portion of LB769 was patterned after the states of Alaska, Delaware, Maine, Michigan, Minnesota, and West Virginia. Thank you. And I can answer any questions. [LB769]

SENATOR LATHROP: Thank you, Mark. Are there any questions? Senator Schimek. [LB769]

SENATOR SCHIMEK: Yes. Something you said caught my attention. And you said that if that person gets 20 percent, at least 20 percent of their income from the sale of animals? [LB769]

MARK LANGAN: Correct. [LB769]

SENATOR SCHIMEK: Then this doesn't apply to them? [LB769]

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MARK LANGAN: The judge...there could be an exception there. The judge could rule that we could not force the animal ownership restriction on that person. [LB769]

SENATOR SCHIMEK: Why? [LB769]

MARK LANGAN: That was written in--just to be very honest with you, I didn't write that portion in--that was written in by our attorneys who felt it important that in the case of an individual who realizes their income from the sale of animals or animal products that the state should not be able to come in and put them out of business. Now that would be something that I could be willing to look at, if the Judiciary Committee have problems with that particular exception. That would definitely be something we could look at. [LB769]

SENATOR SCHIMEK: I appreciate that. But it seems to me a beating is a beating is a beating. I mean, it doesn't matter who administers it. [LB769]

MARK LANGAN: And I certainly see your point on that. [LB769]

SENATOR SCHIMEK: Thank you. [LB769]

MARK LANGAN: Yes, Senator. [LB769]

SENATOR PIRSCH: I haven't looked at the language. But with respect to when it deals with if the judges sees a need for the defendant to still possess animals for the...is that for the defendant's health only, or in other words, say it's a seeing eye dog or something of that sort. Is that technical...I mean, is the statute, the language with respect...do you utilize the word "health" for... [LB769]

MARK LANGAN: If I could take a look at it here real quick. [LB769]

SENATOR PIRSCH: Sure. [LB769]

MARK LANGAN: Because that is a good question. You know these bills can be read differently, obviously. But I would think that it says, if the animal is essential to the health of such person, to me a seeing eye dog would apply in that situation. We could rewrite that to specifically deal with that, if you wanted us to. [LB769]

SENATOR PIRSCH: Yeah. No, I was just wondering what the language that was...it does utilize the word "health" in the bill? [LB769]

MARK LANGAN: Correct, yes, it does. [LB769]

SENATOR PIRSCH: Okay. [LB769]

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MARK LANGAN: Essential to the health of such person. [LB769]

SENATOR PIRSCH: Okay, thank you. [LB769]

SENATOR LATHROP: Any other questions? Okay. Thanks, Mark. [LB769]

MARK LANGAN: Thank you very much. [LB769]

GREG ARIZA: Good afternoon. My name is Greg Ariza and I work--it's spelled A-r-i-z-a--and I work as a county attorney in Douglas County. And I've worked as a county attorney in Sarpy County, also worked as a police officer in the city of Omaha. Bring a lot of law enforcement experience here to talk about this bill. The most important thing about this bill is that it provides clarity in the law, and it provides knowledge to people as to what they are prohibited from doing. These are particularly important terms to define because these are the terms that separate misdemeanors from felonies and these are the terms that judges have wrestled with in determining these cases. And when they wrestle with these cases, then prosecutors wrestle with these cases. A clear definition of torture is paramount in this case. We have had cases where we have presented it to judges at the preliminary hearing level, and the judges have declined to continue them over as felonies, or in the reverse situation, where judges have bound over these cases to district court, only to have the district court sustain a plea in abatement and get rid of these cases. In one such case I had, in Sarpy, where a woman stabbed a puppy in her stomach. And the testimony was that it was a stab, one entrance, and then kind of a movement and a second thrusting into the dog. The veterinarian testified at the hearing that although this was about the most painful way to kill an animal, it was not near any organs to cause immediate death, it did not cause excessive bleeding, and was extremely painful. The judge didn't find that to be torture. She later pleaded guilty to a misdemeanor charge and was placed on probation. In the other case, well, my time is running out here. But in another case there was a case where a man grabbed a dog, flipped it upside down and smashed it into the wall, breaking both of its legs. The county court found that this was torture, the district court disagreed. And so the judges are confused on this issue. We need some clarification here. I also support this restriction on pet ownership because the situation is that if you're convicted of animal abuse, the judge can put you on probation. And we've always asked that they restrict pet ownership at that time. And they can because they have probation, they have jurisdiction over this person during that period. However, if the judge decides probation is inappropriate, what recourse do they have to restrict pet ownership from these people? If some person was convicted of dog fighting, went to the penitentiary for a couple of years and came back, and then was allowed to own dogs, it would seem to defeat the purpose of ending dog fighting in our state. And I hope you'll support this bill and pass it. Thank you. [LB769]

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SENATOR LATHROP: Thanks, Greg. Are there any questions? Seeing none, all right. Thank you very much. [LB769]

GREG ARIZA: Thank you. [LB769]

LARRY WILLIAMS: (Exhibit 27) Good afternoon, senators, Senator Lathrop and members of the committee. Again, it's my pleasure to be here to represent the Nebraska Veterinary Medical Association. We're offering support...or offering our testimony in support. I'll dispense with the discussion about veterinarians' commitment to animal welfare and get to. [LB769]

SENATOR LATHROP: Doctor, maybe we ought to have you give your name one more time. [LB769]

LARRY WILLIAMS: Excuse me. Dr. Larry Williams, from Lincoln, Nebraska. [LB769]

SENATOR LATHROP: Thank you. Thank you. Go ahead. [LB769]

LARRY WILLIAMS: Um-hum. I'll skip down to the part on your handout that I think is the second paragraph on the bottom, beginning with although. We do support this bill, but there is a but involved. Although the NVMA offers its testimony in support of LB769, we have concern regarding Section 3(2)(b), on page 5, lines 5 through 8, which provides for persons convicted of a Class IV felony or a Class I misdemeanor under this act, to be exempted from time restrictions if they derive at least 20 percent of their annual income for the sale or resale of animals and they hold a license for the sale or resale of the animal product. There are several challenges that we see here, and I've listed four. One: Subsection (b) would allow a commercial dog breeder to stay in business even if they were convicted of a felony for mutilating or torturing animals because they have a license, and he may acquire more than 20...receive more than 20 percent of his income from the sale of those animals. The second condition would be a licensed cervid breeder, which is an elk and deer breeder. If they were convicted of torturing his animals, a dog--or a neighbor's dog, even--with a felony conviction, it seems that he would also be exempted as long as he derives more than 20 percent of his income from sale of animals or animal parts. On the other hand, (3) if a cattle or horse breeder or producer--for which they operate without a license--and receive more than 20 percent of their income from the sale of animals, and was convicted of torturing or mutilating animals, that person would not be exempt from the time restrictions in Section 3(1)(a) and (b), because he did not have a license. And, (4) there's a possibility that a family member of the animal owner who, under the influence of drugs or some medical mental condition, tortures and mutilates an animal under the act, would essentially be required to move away from home to be away from the animal, or the family would have to move away from their animals. So these are only some of the thoughts that came to my mind that raised a concern with this subsection. Possible solutions might be to revise Section

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3, on page 4, in lines 9 and 15, and strike "not less than" and insert "a period not to exceed," so that the maximum limit would be the language that's provided there. Then on page 4 again, line 21, strike "may extend" and insert "shall determine," and this would, rather than giving the court permission to extend the time restriction, it would require the court to determine the time restriction, and that time restriction would be a minimum of 0 to a maximum of what is printed, 15 to 5 years. Then on page 5, lines 5 and 8, delete that subsection. These revisions would give the court system the authority to set the time restriction according to extenuating circumstances and remove the concerns about whether or not people, simply because they had a license, were able to commit these felony actions. Thank you. If there are questions, I'd be happy answer them. [LB769]

SENATOR LATHROP: Thank you, Dr. Williams. Are there any questions? Seeing none... [LB769]

LARRY WILLIAMS: Senator Chambers, is your dog's name Twiggy? We had a dog named Twiggy that looked just like that. [LB769]

SENATOR CHAMBERS: Actually, she belongs to Cindy. Her name is Nicole. And she wasn't to be left alone, so I had to bring her to this committee so she can suffer along with me. (Laughter) [LB769]

LARRY WILLIAMS: That could be considered torture. [LB769]

SENATOR LATHROP: That could be torture. Yeah, exactly. (Laughter) All right. [LB769]

LARRY WILLIAMS: Thank you. [LB769]

SENATOR LATHROP: Anyone here in opposition or additional support? [LB769]

ROBERT DOWNEY: (Exhibit 28) Robert Downey, executive director, Capital Humane Society. Senator Lathrop and members of the committee, thank you for the opportunity to testify on this bill. I believe the definition clarification in this bill was very important for reasons that have already been stated to the committee. I really encourage the prohibition of ownership of animals for certain levels of offenses. I do share the concern that Senator Schimek raised, and I can give you a specific example of why I would share that concern. Approximately 12 years ago, there was a gentleman that lived east of Lincoln in Lancaster County that owned 33 head of horses that were used in fairs, and he made his living, substantially, off the use of these horses. He unfortunately was an alcoholic, would go on binges. And on one of his binges when the horses weren't being fed, six head of the horses became parasitized; six of those horses starved to death on his property. We took possession of the surviving horses, along with the Lancaster County Sheriff's Department. And at that time the animal laws were very, very

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different than they were. Gary Lacey, the county attorney, got very innovative. He charged the man with 33 counts of cruelty, and reduced that down to 3 counts for a signed agreement between the court and the owner of the horses that he would not own horses again for a two-year period of time. A law such as the one that might go into place as a result of this bill would be important in protecting those horses from an individual like that from every undergoing the same type of treatment again. [LB769]

SENATOR LATHROP: Very good. Any questions? Senator Pirsch. [LB769]

SENATOR PIRSCH: I appreciate your testimony here today. And, I guess, do you have any experience with these other...apparently, the language was borrowed with respect to the 15-year idea from other states--Oregon, I think, was mentioned. Have you examined how that was...how that was administered in those states at all or do you have the knowledge? [LB769]

ROBERT DOWNEY: I do not have knowledge of that. [LB769]

SENATOR PIRSCH: Okay. [LB769]

ROBERT DOWNEY: And I wasn't involved in drafting this bill, and so I'm not familiar with the states that it was taken from. [LB769]

SENATOR PIRSCH: Okay. Okay, yeah, probably...I appreciate it. I'll just ask after the hearing. So thank you. [LB769]

ROBERT DOWNEY: Okay. [LB769]

SENATOR LATHROP: Very good. Thank you, Mr. Downey. [LB769]

ROBERT DOWNEY: You're welcome. [LB769]

SENATOR LATHROP: Any other supporters? Anyone in opposition? How about anyone in a neutral capacity? And we'll have you give your name and spell your last name, one more time. Okay. [LB769]

ANNE BURKHOLDER: (Exhibits 29 and 30) My full name is...right before I get started. My name is Anne Burkholder, A-n-n-e B-u-r-k-h-o-l-d-e-r. Keeping with the fact that my mother is an English teacher, I've brought handouts for everybody to take home so they can look at it tonight before they go to bed. In addition to what I told you about myself earlier, I guess, I'd like to state that I am the chairwoman or the chairman, or however you want to say it, of the Nebraska Technical Advisory Committee for Beef Quality Assurance in Nebraska. I served for six years as the chairman and the vice chairman of the Animal Health and Nutrition Committee for the Nebraska Cattlemen. Beef quality

assurance is something that's very near and dear to my heart, and I think that it's something that we should talk about today kind of on a positive note, in light of all the negativity that we've heard. Beef quality assurance is a producer-run educational tool that is used in Nebraska, and nationally, to ensure that beef producers do the things that they are supposed to do, and to make sure that we care for our animals with dignity and respect and make sure that their needs are taken care of. I invite you to look on the rear cover of the blue manual, and you'll note that we have a "Producer Code of Cattle Care." And I think that many of the things that we've been talking about today in this bill are taken care of on the rear side here of our manual. I will also note that Nebraska is paramount in the nation for quality assurance. Dr. Dee Griffin, at the MARC Animal Research Center, is the father of beef quality assurance. The program has been around for close to 20 years. I also invite you to look at the second handout that I have, the smaller manual. That was put out by the National Cattlemen's Beef Association, its animal handling care and guidelines for the handling of animals. Again, this takes into account a lot of the things that we've talked about today in terms of the beef industry and how we handle our animals. If I've figured out one thing in the beef industry in the last 11 years, it's that we don't do a very good job of telling people what we do right. And so what I'm here to do today is tell you what I think we're doing right and tell you that I think the beef industry has taken into account the animal welfare issues, and we're trying to do a very good job of caring for the animals that we have a responsibility for. I would like to note in the bill the mutilation clause talks about intentionally causing permanent injury, disfigurement, degradation of function, incapacitation, or imperfection to an animal. When you talk about handling cattle, we castrate our steers. We also dehorn animals. We do some things that some people might call mutilation. Because of the shortage of large animal vets in outstate Nebraska, many of those things are done by producers themselves because there just plain aren't enough veterinarians to perform those activities. One of the beauties of the beef quality assurance program is that it establishes a communication trail between producers and their consulting veterinarians, so that producers, if a veterinarian can't come out to their place and perform an activity such as castration or branding or something like that, the producer can be in touch with their veterinarian and have a plan together with that knowledge and basis to then go out and do it himself. So I would like to note the mutilation clause bothers me a little bit because we have some common animal husbandry practices that producers are performing because of the lack of veterinarians in the state. I would also like to note... [LB769]

SENATOR CHAMBERS: Excuse me. [LB769]

ANNE BURKHOLDER: Yes. [LB769]

SENATOR CHAMBERS: Just on this point. If you look at that definition, in line 13 it says, "or conduct that conform to accepted veterinary practices," which could mean that a nonveterinarian could do these things, but they would have to be done in conformity

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with those standards. And that's why I wanted to be sure that we made it clear that veterinarians must also conform to their standards. And merely being a veterinarian wouldn't excuse him or her from doing some things inappropriately. [LB769]

ANNE BURKHOLDER: Okay. If that's how that is to be construed, then that takes care of my... [LB769]

SENATOR CHAMBERS: That's why I didn't want to just strike the word "or" and make all that apply to vets, because I got the impression that it was to refer to people who may do these things, but do them according to those proper standards. [LB769]

ANNE BURKHOLDER: Okay. All right. Section 11 defining torture, again, I bring the same point up. And if Senator Chambers has already...if everybody else agrees with how Senator Chambers is construing that definition, and that's in fact how it's going to be regulated, then that takes care of that as well. Again, I just wanted to point out the fact that many producers do these animal husbandry practices themselves because veterinarians are not available to perform the task. I would also like to pose a question before I finish as to how this is going to come about. How are we going to know if someone has been convicted of a felony or a misdemeanor so that they've lost their privilege to own an animal? I happen to agree with that clause. I happen to think it's a great clause. But we need to work out the legalities and the practicalities of it so that it can move forward seamlessly and we don't get bogged down on details. With that, I would like to suggest that possibly we combine LB764 and LB769, and we've talked with Senator Cornett about possibly doing that. They take into account a lot of similar factors, and I think perhaps they can be blended together to take care of what we need to take care of. With that, I'll close. If anybody has any questions, I'd be glad to answer. [LB769]

SENATOR LATHROP: Very good, Anne. Thank you. Are there any questions? Other than to observe that you hand me something at 5:15 p.m. and there's hamburgers on it...(laughter). We're done. [LB769]

ANNE BURKHOLDER: Well, hopefully, you'll go out and have a good beef dinner. [LB769]

SENATOR LATHROP: I may just have beef tonight. Thank you. [LB769]

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Disposition of Bills:

LB764 - Advanced to General File, as amended.  
LB769 - Advanced to General File.  
LB1032 - Held in committee.  
LB1042 - Held in committee.  
LB1055 - Advanced to General File, as amended.  
LB1167 - Held in committee.

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Chairperson

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Committee Clerk