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General Affairs Committee
February 22, 2010

[LB744 LB887 LB985 LB1012 LB1023 LR296CA CONFIRMATION]

The Committee on General Affairs met at 1:30 p.m. on Monday, February 22, 2010, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB887, LB1012, LB744, LR296CA, LB985, LB1023, and gubernatorial appointments. Senators present: Russ Karpisek, Chairperson; Kent Rogert, Vice Chairperson; Colby Coash; Tanya Cook; Merton "Cap" Dierks; Annette Dubas; Bob Krist; and Scott Price. Senators absent: None. []

SENATOR KARPISEK: Good afternoon, everyone. We're going to get started here. Welcome to the General Affairs Committee. My name is Russ Karpisek of Wilber, and I am the Chair of the General Affairs Committee. Members of the committee to my far right are Senator Coash of Lincoln; next to him, Senator Krist of Omaha; Senator Dierks of Ewing; Senator Rogert of Tekamah, also Vice Chair of the committee. Next to me on my right is Josh Eickmeier, committee legal counsel from Seward. To my far left is Joan Snyder, committee clerk from Lincoln. Next to her is Senator Price of Bellevue. Next to him will be Senator Cook of Omaha; and on my left will be Senator Dubas of Fullerton. As you can see, there are other hearings going on today so if the senators are here or have to leave in the middle of your testimony, don't feel that they're doing it because of you. They probably have somewhere else to go. Pages helping us today are Justin Trauernicht of Pickrell and Leslie McIntosh of Syracuse. If you need anything, please get their attention and they'll be happy to help you out. After each bill introduction, we would like to hear testimony first in support of the bill, then testimony in opposition, and finally neutral testimony. If you're planning on testifying in any capacity, please pick up a sign-in sheet that is on the table at the back of the room at either entrance. Please fill out the sign-in sheet before you testify. When it is your turn to testify, give your sign-in sheet to one of the pages so they can give it to the committee clerk. This will help us make a more complete and accurate record of the hearing today. If you have any handouts, please make sure that you have ten copies for the page to hand out to the committee. When you come up to testify, please speak clearly into the microphone. Please tell us your name and spell your first and last name, even if it's a simple name. Also please tell us whom you are representing, if anyone. Senator Dubas has joined us from Fullerton. Please turn off your cell phones, pagers, or anything else that makes noise, and please keep your conversations to a minimum or take them out in the hallway. Finally, we do allow handouts, but we do not allow visual aids or other display items. Recording or pictures are prohibited. The press, of course, does not have to follow those rules. If we have the press, they will be able to film, take pictures, or record. We will be using the light system today. When you start, you'll have a green light. We'll give you five minutes to speak. When the amber light comes on, you'll have one minute, start wrapping it up. And the red light will mean for you to wind it up. We won't cut you off right at the red light, but we would appreciate you to stop as soon as possible so we don't have to cut you off because I don't like to do that, but I will. This is the last day of our hearings. We haven't had to throw anyone out yet so let's keep it that way. First bill

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on the agenda today is...oh, we're going to have confirmation hearings. I'm sorry. State Electrical Board, Michael Hiatt. Please have a chair, state your name. Welcome. []

MICHAEL HIATT: Welcome. Michael C. Hiatt, M-i-c-h-a-e-l H-i-a-t-t. [CONFIRMATION]

SENATOR KARPISEK: Thank you. And do you want to tell us a little bit about yourself, why you want to be on the board? [CONFIRMATION]

MICHAEL HIATT: I will be representing the public power districts in the state of Nebraska. I have been employed at the Butler Public Power District for 31 years, currently serving as operations manager. [CONFIRMATION]

SENATOR KARPISEK: Very good. Do we have any questions for Mr. Hiatt? Seeing none, thank you. [CONFIRMATION]

MICHAEL HIATT: Thank you. [CONFIRMATION]

SENATOR KARPISEK: Do we have anyone who would like to speak in support of Mr. Hiatt? Seeing none, do we have anyone in opposition? Neutral testimony? If not, we will close the confirmation hearing on the State Electrical Board. We also have a confirmation hearing on the Nebraska Arts Council for Steve Homan. Welcome, sir. [CONFIRMATION]

STEVE HOMAN: Thank you. Good afternoon, everybody. My name is Steve Homan, 32 Red Fox Lane in Kearney, Nebraska, S-t-e-v-e H-o-m-a-n. [CONFIRMATION]

SENATOR KARPISEK: Would you like to tell us a little bit about yourself, why you want to be on the commission, council, any of that? [CONFIRMATION]

STEVE HOMAN: Yeah. I was actually approached to be on the Nebraska Arts Council, knew something about it. I just have been involved in different things since I've lived in the state. I think they do good work, and I want to do what I can to help promote arts and culture, not only in the 3rd District but around the state. [CONFIRMATION]

SENATOR KARPISEK: Very good. And we won't make you say anything good about your Senator Hadley because (laugh)... [CONFIRMATION]

STEVE HOMAN: I appreciate that. That red light would probably have to come on. [CONFIRMATION]

SENATOR KARPISEK: Do we have any questions? Senator Price. [CONFIRMATION]

SENATOR PRICE: Senator Karpisek, thank you. Sir, the question I would ask you is

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within the arts is there a particular genre or form that you're more enamored with than any other? [CONFIRMATION]

STEVE HOMAN: I'm biased to pastels as my wife is a pastel artist, but I like them all. I've served on the storytelling as the storytelling chair in Kearney. I'm currently the vice chair of Mona's Spirit, their biannual fund-raiser, so I'm not real partial one way or another. I just think generally speaking I may not like them all, but I think they're all probably good. [CONFIRMATION]

SENATOR PRICE: Well, I ask that because I see that you're on the symphony board... [CONFIRMATION]

STEVE HOMAN: Yeah. [CONFIRMATION]

SENATOR PRICE: ...so I didn't know if that was somewhere where you had a passion for the music versus, like you said, pastels and art and drama, and those types of things or how maybe children and youth fall into that spectrum of being important across the state. [CONFIRMATION]

STEVE HOMAN: I'll answer that briefly, but, not that anybody cares, but was all-state honor choir in high school, was in the Notre Dame Glee Club for a short time at Notre Dame and love the symphony. And all my kids, I have three daughters that are 10, 8, and 5 and they all play piano and they all sing and they all draw so. Kearney Area Symphony Orchestra was something that, again, their director is great, university does a nice job with it, and I think music is wonderful so...and they needed help. [CONFIRMATION]

SENATOR PRICE: Well, thank you very much and thank you for volunteering, working with the state to fill that position. [CONFIRMATION]

STEVE HOMAN: Yeah, thank you for your question. [CONFIRMATION]

SENATOR KARPISEK: Thank you, Senator Price. Any other questions? Senator Dierks. [CONFIRMATION]

SENATOR DIERKS: Thank you, Senator Karpisek. Why, did you ever play the banjo? [CONFIRMATION]

STEVE HOMAN: No, well, that's not accurate. I played it once but not well. (Laugh) [CONFIRMATION]

SENATOR DIERKS: I see. I've never even played it once, but I got a recording the other day of the Boston Pops and one of the tunes was sprinkled with a banjo and it really

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sounded good. I remember as a kid we used to have one in the basement of the house along with about three violins, but I don't think the strings were on any of them.

[CONFIRMATION]

STEVE HOMAN: Probably might have sounded better if it was me playing in that facet.

[CONFIRMATION]

SENATOR DIERKS: Tell me about the Donald and Lorena Meier Foundation.

[CONFIRMATION]

STEVE HOMAN: Yeah. Don Meier is actually from Oshkosh, Nebraska, and he was the original producer of Mutual of Omaha's Wild Kingdom. And this past summer we dedicated a commons right in the middle of campus here where he is going to or has already started...he's got an endowment and a pretty substantial one for effectively kids that are wanting to go to the university that may not have the means, special emphasis on broadcasting and those types of things. So I think it's going to do a lot of good for the state and they're really good people. [CONFIRMATION]

SENATOR DIERKS: I see the address is Winnetka, Illinois. [CONFIRMATION]

STEVE HOMAN: Correct. [CONFIRMATION]

SENATOR DIERKS: And that struck a bell with me. I've been there several times.

[CONFIRMATION]

STEVE HOMAN: The original Mutual of Omaha's Wild Kingdom was actually Lincoln Park Zoo with Marlin Perkins and that's where Don started the production back in 1955, I believe. So he has a real affinity for the state, and he has a real affinity for the university, and I'm one of the seven people on his board. [CONFIRMATION]

SENATOR DIERKS: That's good. Thank you. [CONFIRMATION]

STEVE HOMAN: Yeah. Thanks for the question. [CONFIRMATION]

SENATOR KARPISEK: Thank you, Senator Dierks. Any other questions? Seeing none, thank you for being here. [CONFIRMATION]

STEVE HOMAN: Yeah, thanks for the work you all are doing. [CONFIRMATION]

SENATOR KARPISEK: Do we have anyone to testify as a proponent for Mr. Homan? Anyone an opponent? Anyone neutral? Seeing none, that will end the hearing for the Nebraska Arts Council and thank you both for being present today. Now we'll move to our first bill of the day, LB877, by Senator Stuthman. Welcome. [CONFIRMATION]

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SENATOR STUTHMAN: Thank you, Chairman Karpisek and members of the General Affairs Committee. For the record, my name is Arnie Stuthman, A-r-n-i-e S-t-u-t-h-m-a-n, and I represent the 22nd Legislative District. I'm here today to introduce LB887. LB887 was brought to me by the general manager of Columbus Ag Park, which conducts live horse racing and simulcasting in Columbus. The general manager has since resigned since the introduction of this bill. LB887 reduces the number of days a track must conduct live racing from 70 percent of the races run in 1988 to 55 percent of the races run in 1988 in order to conduct simulcast racing. This change would allow Ag Park to run approximately 18 days of races instead of 23 days of races. And due to the cost of running a live meet, Ag Park would like to run less days and maintain the ability to conduct simulcast racing. I think since the manager has quit at this time there was concerns of the possibility of the Platte County, the Ag Park of not running a meet at all this year. But when that would occur, simulcasting would also discontinue. So in order to keep the simulcasting, we must have a live meet, in my opinion. But the fact that the days that were run in the last several years, matter of fact, for many, many years, I did serve on that board at one time, the live meet does cost the ag society some money. But most generally, the simulcasting portion takes care of that loss of the live meet. So putting it both together, you know, I think it still could be profitable, depending upon how it is managed at the racetrack. So with that, I'm asking you to consider this bill. And if you have any questions, I'd be glad to try to answer them. [LB887]

SENATOR KARPISEK: Thank you, Senator Stuthman. Any questions? How many days did you say they ran last year and how... [LB887]

SENATOR STUTHMAN: We ran 23 days. [LB887]

SENATOR KARPISEK: Twenty-three. [LB887]

SENATOR STUTHMAN: We at one time ran 30 days. [LB887]

SENATOR KARPISEK: And how many do they want to run? [LB887]

SENATOR STUTHMAN: They wanted to run like five days less initially. Initially, I think they wanted to run less days than that. But in order to change the statute, they had to come down a percentage of the races in 1988 is when that was established for the simulcast racing. [LB887]

SENATOR KARPISEK: Okay. So it's from '88 that you always have to do the... [LB887]

SENATOR STUTHMAN: From '88 is the basis that they use. [LB887]

SENATOR KARPISEK: Very good. Any other questions? Senator Coash. [LB887]

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SENATOR COASH: Thank you, Chairman. Senator Stuthman, just for the record, if this was enacted and things turn around, they wanted to race 23 days, they could go back up to it? [LB887]

SENATOR STUTHMAN: They could if it was approved by the Racing Commission. [LB887]

SENATOR COASH: It's approved by...okay. Thank you. [LB887]

SENATOR KARPISEK: Thank you, Senator Coash. Any other questions? Seeing none, thank you. [LB887]

SENATOR STUTHMAN: Thank you. I will waive closing because I've got another bill in another committee. So thank you. [LB887]

SENATOR KARPISEK: Thanks for being here, Senator. Do we have anyone in support of LB887? I don't see a big rush, Senator. Do we have any opposition to LB887? Welcome. [LB887]

LYNNE SCHULLER: Thank you. Good afternoon, Chairman Karpisek and members of the committee. My name is Lynne Schuller, S-c-h-u-l-l-e-r, and I am the executive director of the Nebraska Horsemen's Benevolent Protective Association. We have a great amount of respect for the senator. He's been a friend of racing for many years. And as he mentioned, he was on the Ag Park board for many, many years. However, we cannot support what Columbus is trying to do for several reasons. First of all, up until last year we had 103 days of live racing. Because the State Fair moved to Grand Island, we took over the track in Lincoln and subsequently, because of those expenses, had to cut the live racing season to 91 days this year. If this bill were to pass, the racing season would go from 91 days to 44 days total. It doesn't just have an impact on Columbus. It's all tracks who ran in 1988, meaning Fonner Park would be included in that. So Fonner Park currently has to run 31 days. They would have eight days cut off their requirement. And I can assure you that no one will volunteer to run extra days from beyond the minimum that they have to run. The way it works is simulcasting is the generating, the income generator for racing in general. The live meet is basically a cost of doing business. The HBPA's sole mission in life is to preserve live racing in the state. If this bill were to pass, they will run the minimum number of days, and I believe the circuit would disintegrate at that point. You can't run an entire circuit in the state on 44 days. You simply can't make a living doing that. The other problem is Columbus is having a vote tonight whether to run at all this year. So there may not be a live meet in Columbus at all in this current year. And I do understand that Senator Stuthman said this bill was brought to him by the general manager. However, I do know that it was brought to him by the general manager at the direction of the board. They have a

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13-member board and they can't have one person show up in support of the bill that Senator Stuthman was considerate enough to introduce on their behalf? I think it's incredibly disrespectful, and I think it shows you their intentions here. So we would stand in strong opposition to this bill. And if you have any questions, I'd be happy to answer them. [LB887]

SENATOR KARPISEK: Thank you, Ms. Schuller. Senator Krist. [LB887]

SENATOR KRIST: I grew up with Ak-Sar-Ben in my backyard. I'm not a gambler by trade nor do I intend to be, but I enjoy the activity. [LB887]

LYNNE SCHULLER: Yes. [LB887]

SENATOR KRIST: I'm going to make a comment and then ask a question. [LB887]

LYNNE SCHULLER: Okay. [LB887]

SENATOR KRIST: My comment is I think your organization and horsemen in particular need to get their act together in the state. I truly believe that that's the case and that speaks to the comment that you made about the people who asked Senator Stuthman to bring this thing forward. [LB887]

LYNNE SCHULLER: Right. [LB887]

SENATOR KRIST: We tried very hard to make sure that you had opportunities on the floor that, as you know, were voted down. And now we hear about a track that doesn't want to do live. And you know my conviction was listening to people who have family farms and ranches who raise quarter horses who race. [LB887]

LYNNE SCHULLER: Absolutely. [LB887]

SENATOR KRIST: That's really what I remember out of my Ak-Sar-Ben experience because I was one of those snot-nosed little kids that was running around with those families and enjoyed that culture. So my question is--that's my comment, I'm sorry. My question is we've been told that the future of horse racing and horsemen in this state is slim and none and slim is leaving town quick. What are you all going to do to try to prop this industry up internally so that you can come back on a united front and we can see things that are...we're going to be able to help you do what you need to do? [LB887]

LYNNE SCHULLER: Frankly, every effort we've made internally has been tried. We have done a lot financially for all of the tracks that are still running to the point where the Nebraska HBPA has no reserve account left because we have financially supported Fonner Park, Columbus and had supported Lincoln until they left town. As you know, we

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now own three of the five tracks, not by our choice but because if we didn't run them no one would. There was an incident five years ago. It's by agreement part of the simulcast money goes directly into the purse account, which is how the horsemen make their money. It was discovered, I believe it was six years ago, that \$234,000 of that money was missing in Columbus. No one could provide an adequate explanation for how that happened, and the money was never recovered. The HBPA replenished that fund on its own out of its own account. So that is on top of the numerous instances of financial help we've offered in the past over the past few years. At this point, financially we can't do it anymore. We're done. So we would like them to make the appropriate changes internally. We feel there are some changes that can be made. Senator Stuthman alluded to the fact that their manager just quit. There are some things going on there that we think could be rectified if the will is there. But there are certain things that are just beyond our control. We can't manage their way out of the situation when we don't have any control over their internal management controls. So at this point I would love nothing better than for all of us to be on the same page. However, you know when money is tight and dwindling, people start getting desperate and... [LB887]

SENATOR KRIST: Rodents off a sinking ship. [LB887]

LYNNE SCHULLER: Right. [LB887]

SENATOR KRIST: I appreciate...I want you to understand my comments are not derogatory towards you. [LB887]

LYNNE SCHULLER: I understand. [LB887]

SENATOR KRIST: It's not understanding the mixed signals that I get sitting back here and the expectation that we can help... [LB887]

LYNNE SCHULLER: Right. [LB887]

SENATOR KRIST: ...but we're not supposed to, but we need to do this, but we don't want to. [LB887]

LYNNE SCHULLER: Right. [LB887]

SENATOR KRIST: I think that's a message that needs to be sent back to horsemen in general, your organization, and to the tracks. [LB887]

LYNNE SCHULLER: Right. [LB887]

SENATOR KRIST: I don't know if there's a person in this United States that can be hired to regroup and put you all back together, but something is going to have to

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happen. [LB887]

LYNNE SCHULLER: Well, I think that the horsemen as a group are a very united front. However, you know, when you've got legislation after legislation after legislation that's stopped and you're one of the most highly regulated industries in the state and you can't make a move without a change in legislation, it tends to be soul crushing after a while. I'll be honest with you. And I think that's kind of the point they're at now. They desperately want to save the industry, but the door has been shut in their face so many times that it's hard to stay positive. [LB887]

SENATOR KRIST: Thank you for having the ability to come here today, and thank you for your testimony. [LB887]

LYNNE SCHULLER: No problem. [LB887]

SENATOR KARPISEK: Senator Dierks. [LB887]

SENATOR DIERKS: Thank you, Senator Karpisek. Welcome, Lynne. It's good to see you again. [LB887]

LYNNE SCHULLER: Thank you, Senator. [LB887]

SENATOR DIERKS: How are things in Antelope County? [LB887]

LYNNE SCHULLER: Doing very well now that the snow is starting to melt. [LB887]

SENATOR DIERKS: Yeah. Why, I guess I'm having a little difficulty, too, along with Senator Krist that I don't really understand how a group can expect to be profitable by reducing the amount of time they race. [LB887]

LYNNE SCHULLER: What they want to do is they want to continue to be able to simulcast, which is where they make most of their money. A live meet, by its very nature, has to employ a lot of people. Over 100 people have to be there to put on a live meet. And that's in addition to the uplink costs and the types of things that you have to do. In order to simulcast, you have to be able to convey your signal so you've got to bring the satellite trucks in and the tote board, that kind of stuff. So it is very expensive intensive as far as the live meet. But it does get amortized over the number of days you run. So, you know, there is some offsetting of costs if you run...I mean, it costs almost as much to run 1 day as it does to run 20 because you've got to have those people in town and you've got to have the uplink. So I think part of the problem is they are a 13-member board and they turn over so fast. They have a new president each and every year. They're automatically out after the year and so part of the problem is continuity, but that's, once again, beyond my control. I try the best I can to inform them

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about the financial situation and how all of this works. But frankly, most of that board does not understand horse racing and really don't want to. I mean, they've got a lot of other things going on. They have the largest assembly space in Columbus so they manage that. They have the county fair. They have horse shows, that kind of thing, so they've got a lot on their plate. I don't blame them for not understanding all the ins and outs of horse racing, but it would be nice if they took a little more of an interest. [LB887]

SENATOR DIERKS: Now you're talking about the group you represent. [LB887]

LYNNE SCHULLER: No, Columbus Ag Park is who I'm talking about. [LB887]

SENATOR DIERKS: Do the other ag parks function the same way? [LB887]

LYNNE SCHULLER: It's all the same organization. [LB887]

SENATOR DIERKS: I mean you're talking about Columbus but they do the same thing for Grand Island and for... [LB887]

LYNNE SCHULLER: Grand Island operates a little bit differently. Fonner Park stands alone. They do have the Heartland Event Center that's connected to Fonner, but Fonner really is centered on horse racing and they do have a very intimate understanding of how racing works and the expenses involved. [LB887]

SENATOR DIERKS: Thank you. [LB887]

SENATOR KARPISEK: Thank you, Senator Dierks. Any further questions? Seeing none, thank you. [LB887]

LYNNE SCHULLER: Thank you. [LB887]

SENATOR KARPISEK: Do we have any other opponents? Any neutral testimony? [LB887]

TOM SAGE: Good afternoon, Senators. [LB887]

SENATOR KARPISEK: Good afternoon. [LB887]

TOM SAGE: My name is Tom Sage. I'm the executive director of the Nebraska Racing Commission. [LB887]

SENATOR KARPISEK: Can you spell that for us, please? [LB887]

TOM SAGE: Yes. It's S-a-g-e. Primarily here to answer any questions that you may

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have as a committee, but I also wanted to give you some quick facts. The reduction of the race days that were mentioned earlier would be eight for Fonner Park and five for Columbus Racetrack at generally approximately \$1.2 million less revenue or handle generated. And where that comes from is just averaging what they've bet before at those racetracks minus those dates. That would be approximately \$8,000 less revenue for the Racing Commission, which is a cash-funded agency. It would also have an impact on the General Fund. Again, staying with the same numbers, Fonner Park pays into the General Fund, pays pari-mutuel tax, so that would be a decline in revenue for the General Fund also. That's all I have. I'm here to answer any questions to try to help you. [LB887]

SENATOR KARPISEK: Any questions? Senator Dierks. [LB887]

SENATOR DIERKS: Thank you, Senator Karpisek. Tom, I didn't get who you said you represented. [LB887]

TOM SAGE: With the Racing Commission. I'm the executive director of the Racing Commission. [LB887]

SENATOR DIERKS: Okay. And you're testifying neutral. [LB887]

TOM SAGE: Yes, sir. [LB887]

SENATOR DIERKS: Thank you. [LB887]

SENATOR KARPISEK: Senator Krist. [LB887]

SENATOR KRIST: Thank you, Chair. Tom, the question to follow on from my previous comments, they want to hold down the revenue and not have as many live days. [LB887]

TOM SAGE: Correct. [LB887]

SENATOR KRIST: They want to continue to simulcast so that number is going to be the same place. [LB887]

TOM SAGE: Right. [LB887]

SENATOR KRIST: So in general we're looking at a loss. [LB887]

TOM SAGE: Let me try to explain and see if it gets your question here. As Ms. Schuller said, live racing is very expensive. Simulcast is your moneymaker. You have to have live racing to have simulcast the way our statutes are written. The way I look at it and

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have looked at figures put out on paper, simulcast is a moneymaker and it makes up the difference from your live racing plus. I hope that answered. [LB887]

SENATOR KRIST: Right on target. Thank you very much. [LB887]

TOM SAGE: Thank you. [LB887]

SENATOR KARPISEK: Senator Dierks. [LB887]

SENATOR DIERKS: If you carry this out a little bit further, pretty soon you're down to no racing days. How's the percentage of simulcasting compared to normal racing days? [LB887]

TOM SAGE: Right now they can simulcast 365 days a year as long as they have live racing. [LB887]

SENATOR DIERKS: So they're simulcasting from Tennessee and from Texas and... [LB887]

TOM SAGE: California, wherever, absolutely. The only statute requirement we have are the live race dates which now stands at the 80 percent or, excuse me, 70 percent of what was ran in 1988. [LB887]

SENATOR DIERKS: Thank you. [LB887]

TOM SAGE: Uh-huh. [LB887]

SENATOR KARPISEK: Thank you, Senator Dierks. Any other questions? I will. What's going to happen if Columbus decides tonight not to run? [LB887]

TOM SAGE: Well, I think at this point, Senator, I don't know that I can address that to you. Obviously the heads are going to have to get together and figure out what's going on. If Columbus would decide tonight not to have a live race meet, the way I interpret the statutes--and again, by no means am I an attorney--they could continue running simulcasting through December 31 of 2010 if the majority of the owners and trainers, which is the HBPA, would approve their simulcast request here forth. What would ultimately happen, I don't know. [LB887]

SENATOR KARPISEK: And could you again, you touched a little bit on the General Fund, were you talking about the state General Fund that the money comes into? [LB887]

TOM SAGE: Yes. There's a pari-mutuel tax. And I apologize, I should have been better

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prepared to answer that. Fonner Park and Horsemen's Park are the only two tracks in the state that pay into the pari-mutuel fund. They have to wager over \$10 million, so on and so forth. So a reduction of the pari-mutuel handle at Fonner Park would impact the money that they pay in through the pari-mutuel tax to the General Fund. [LB887]

SENATOR KARPISEK: So less racing, if one stops racing or we don't have racing in the state, it will affect the state's General Fund. [LB887]

TOM SAGE: I believe it would, yes, Senator. [LB887]

SENATOR KARPISEK: Thank you. Any other questions? Seeing none, thank you for testifying. [LB887]

TOM SAGE: Thank you. [LB887]

SENATOR KARPISEK: Do we have any other neutral testimony? Seeing none, Senator Stuthman waived closing so that will end the hearing on LB887. We will now open on LB1012, Senator Rogert. Welcome, Senator Rogert. [LB887]

SENATOR ROBERT: Why, thank you. Good afternoon, Senator Karpisek and members of the General Affairs Committee. My name is Kent Rogert. I represent Legislative District 16. I'm here today to introduce LB1012. LB1012 was a bill that expands the horse Racing Commission from three members to five members. The three members currently reside in the different Congressional districts and the two additional members would be at-large. The current term for the three commission members is three years and LB1012 would increase that term to four years. The Governor appoints these members to the commission and, as such, the Governor would also appoint the additional at-large members no later than 60 days after the effective date of this act. Under LB1012, the Second Congressional District member is reappointed this year in April, serving a four-year term, and then four years thereafter. The Third Congressional member is reappointed the following year in 2011 and serving a four-year term and then four years thereafter. The First Congressional District member is reappointed the next following year in 2012, serves a four-year term, and then four years again. The reason for that deliberation is the fact if you start changing the makeup of a committee, you have to deliberate how long the remaining members will go. That being said, if LB1012 were to go into effect the two at-large members would be appointed this September for a three-year term and then another four-year term in order to properly stagger them throughout the years between the existing members of the commission. This way, no year will pass without at least one member being appointed and no year will pass with more than two members being appointed at the same time with the exception of this year. Presently, no more than two members are to be from the same political party. With the dual increase in membership we have appropriately increased that number to three. Coupled with an increase in membership in terms, LB1012 would allow members of the

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horse Racing Commission to wager, participate, and employ within the industry. However, we have provided an exception on the employees of the commission who are currently not permitted to wager, participate, and employ within the industry. And under this bill, they would still not be able to do so. The purpose behind this legislation is generally to allow members to participate in an industry that they may feel passionately about but, more importantly, to enhance the quality and expertise of the commission and, consequently, allow them to be as competitive or as on an equal par with commissions in other states, such as Arkansas, California, Illinois, Maryland, and Texas. I think the sentiment behind it is if you have an interest in horse racing and you're appointed to the commission, your interest therefore is stopped because you're not allowed to race, work, bet, or take part in the horse racing industry. There was...we originally had thought about taking it out for everybody but there became a concern about, for example, say you had a vet on a track, it's probably a good idea if he's not able to bet while he's got a syringe in his hand. So we left those people out and we're just allowing the commissioners to be able to do that as most commissioners on the board have a severe interest in the commission. With that, I do have one of the commissioners behind me coming to testify and feel free to ask her as many questions as you like, but I'll answer any that I can. [LB1012]

SENATOR KARPISEK: Thank you, Senator Rogert. Any questions? Seeing none, we'll let you off. Do we have the first proponent of LB1012, please? Welcome. [LB1012]

HELEN FELLER: Good afternoon, Chairman Karpisek and the members of the committee. My name is Helen Abbott-Feller. It's H-e-l-e-n, last name is F-e-l-l-e-r, and I am currently a member of the...one of the three members of the Racing Commission. I'm not here speaking in behalf of the Racing Commission. I'm here speaking for myself. And my history is that I've been in racing all my life. I was raised in western Nebraska and my dad raced horses and then I became involved in the breeding of it and I was very involved at Ak-Sar-Ben. And then I sold the farm and raised my family and I've come back kind of through this appointment and so that's why I'm here now. I'm here in support of the bill because it is one of the spokes in the wheel that needs to be strengthened and when we want to fix racing, it is a base that you'll get more knowledgeable people that need to participate and people who care in this position. Right now with the three members, if one abstains or...then you only have two that are making the decision, and if anybody else has a conflict then you end up with just one. And most states have more than five. And as far as involvement in the industry, I think the health and vitality of racing is in fact dependent on involvement of the industry. Just as in a sport like basketball or wrestling, if your referee doesn't have knowledge of the sport, then he's not going to be a good referee. So that's why I support expanding the commission and not relaxing the rules on their involvement because you need knowledgeable people who care and especially now in Nebraska when the wagon is broken. Any questions? [LB1012]

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SENATOR KARPISEK: Thank you. Senator Dierks. [LB1012]

SENATOR DIERKS: Helen, why was the statute...why were the statutes set up to not allow the members of the commission to wager and do betting? [LB1012]

HELEN FELLER: Well, I...like in the history there's people here that can better answer that question but, of course, Nebraska started pari-mutuel racing in the '30s, and I think it was a matter of integrity, that they felt that there would be a conflict of interest. And now with the Internet and racing in all these states, you know, we are one world and there really isn't any way to keep that straight anymore. So I just think it's an antiquated law that they just, you know, thought that...really felt that, you know, kept the integrity. My dad grew up with Harry Farnam and they were best friends and I know Harry Farnam basically was a commissioner for a long time and he always felt that it should be expanded and that there should be involvement by the commissioners. So I guess that now that I'm here and I can present this bill, I thought it was a good time to make that change to help racing in the future. I mean, we do need to do some great things and we need the people here, and there are some awesome, passionate people that have left Nebraska because they've been just stifled and smothered and there are just bigger places, bigger pots elsewhere, and we need them. [LB1012]

SENATOR DIERKS: Thank you. [LB1012]

SENATOR KARPISEK: Senator Krist. [LB1012]

SENATOR KRIST: The situation that we're in today, everything that has a fiscal note, no matter how small it is, is scrutinized on the floor. So my question...the only fiscal note attached to this has to do with your expenses. You're not paid and thank you for your service, but your expenses are reimbursed. Accurately, can you say that we're not going to exceed the \$4,000, and \$2,000 apiece basically is what we're talking about, in terms of expenses? Is that what you normally see? [LB1012]

HELEN FELLER: I can't accurately say that we will not. Again, there's people in this room that can answer that. But we aren't paid. It's basically...for me it's the time it takes me to drive up here and back. So it's not adding to the budget that severely. I mean, it's not going to be...and I'm not asking for more funding in that way, and so... [LB1012]

SENATOR KRIST: I guess my only rationale in asking the question is sometimes we don't know whether the Fiscal Office hits it on the mark or not and I was just asking for a personal assessment about what you think it might be, so. [LB1012]

HELEN FELLER: My personal assessment is that, no, we would be fine, that there wouldn't be additional burden. [LB1012]

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SENATOR KRIST: Great. Thanks for coming and thank you again for what you do. [LB1012]

HELEN FELLER: Uh-huh. [LB1012]

SENATOR KARPISEK: Thank you, Senator Krist. Any further questions? Seeing none. Thank you for your testimony. Do we have any further proponents? [LB1012]

HELEN FELLER: Excuse me. [LB1012]

SENATOR KARPISEK: Oh sure. [LB1012]

HELEN FELLER: (Exhibit 1) I do have a handout here just to compare other states and what they have done and on ownership and betting. And I highlighted in red the ones that do have betting and ownership and the number here. It does state here that Nebraska already has five, which we don't, we only have three. But if you will notice here if you all aren't familiar with racing, that most of the states that do have racing and the ones that don't are like Colorado, Delaware, they have racing but they're not strong. So you can see that the other states that do have racing, they have included both. [LB1012]

SENATOR KARPISEK: Great. Thank you. Further proponents? Welcome. [LB1012]

DAN DIXON: Thank you. Good afternoon. My name is Dan Dixon, D-a-n D-i-x-o-n, and first of all, I'd just like to thank you all for allowing us the opportunity to speak with you here today. I also am very passionate about the horse racing industry. A lifelong Nebraska resident, I grew up in the city of Omaha, not on a farm or ranch anywhere, but was sort of impressed by the magnitude of what happened to Omaha on the weekends during the Ak-Sar-Ben racing season and the tremendous influx of population from out of the state and from all around the state to come to Omaha for the weekend to be entertained and to play the horses. An interesting phenomenon we have here, isn't it? We have on the one hand what so many people consider a dying industry, on the other hand we have some people here that are proposing we expand the Racing Commission. Seems like there's some incongruity there. And to those folks that think the industry is dying, yes, it is in Nebraska. We are constrained in some very significant ways by well-intended legislation back in the '30s that allowed pari-mutuel wagering to start, but as times have evolved, the racing rules have not evolved with them. So there are states around the country where racing is alive and well and very vibrant, very prosperous, and there's no reason Nebraska can't do some of those things but we have to have the will to do that. We also need the leadership to do that and that's where I am in favor of expanding the Racing Commission to a five-person board with respect to adding some new ideas, some new leadership to the organization. Personally, I've been involved in the sport for over 25 years now, but for the last 15 years it hasn't been in the

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state of Nebraska. Even though I still live in Elkhorn and I raise a few young horses there, all of my racing, all of my breeding, all of the dollars that I commit to the sport, along with partners that I have in the game, go to other states and other entities. You know, I guess, I'm also a business consultant and have worked for the National Thoroughbred Racing Association as a consultant and as an employee for quite some time. And it's interesting to me to always hear the conversations that go on because there's this constant tug of war. You heard one of them just a few minutes ago between racetrack management and the guys that own the horses. You know, the guys who own the horses want to have a place to run. The track management, obviously, has to be fiduciary responsibility to making a profit. So there's a lot of things that go into that. I won't bore you with all that today because it takes a long, long time. But essentially, I guess, I use the analogy if we look at the whooping crane or the American symbol, the Bald Eagle, and when they're faced with extinction, what do we do? We try to figure out a way to save them. We've got the racing industry here in Nebraska that is faced with extinction and we haven't done a whole lot because of all the politics and the tug of war that goes on. But here's something that's fairly simple that can be done. We can plant a seed to expand the Racing Commission to allow some additional ideas and hopefully some new leadership to come on board and start to take this ship and steer it in the right direction. It's a proud industry. It's over the decades paid hundreds of millions of dollars to the state coffers in taxes. And it's undeniable. It's history. It's well documented. Nowadays, it isn't so. In other...like I said earlier, in other states it is so. There's still big contributors to state tax situations and we can have that again in Nebraska if we can start to go the right direction on some of these things. Expanding the Racing Commission is a very small baby step in that process. It's not a cure-all. It's not an answer to any of these situations. It's a very small step with very good upside and essentially no downside, as far as I can tell. There are still some people in the state that really do care and we're willing to volunteer our services and help get the footing back underneath an industry that is worth saving and is worth protecting. And I guess I would say, how can that possibly be a bad idea? I would happily entertain any questions you have. [LB1012]

SENATOR KARPISEK: Thank you, Mr. Dixon. Senator Price. [LB1012]

SENATOR PRICE: Senator Karpisek, thank you very much. Mr. Dixon, I would offer that in your testimony making a comparison to the Bald Eagle or the crane and a business entity are a world apart. If you were to tell me that racing horses were going to be extinct, that analogy would follow. But to say, a business, I mean, the seal industry had some problems, too, a few years back but just...I would caution that that's a little bit over. [LB1012]

DAN DIXON: I appreciate it. It's probably not the best analogy. [LB1012]

SENATOR PRICE: Okay. [LB1012]

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DAN DIXON: It didn't take me a whole long time to figure out. But I guess the point that touched me a little bit when I did think about it is that this business, this industry is people. Okay? And they're Nebraskans, state residents. Now, I don't see eye to eye with the HBPA on a lot of issues and, you know, there's always, like I say, that tug of war that exists and I appreciate that. But I guarantee you that these people that have lived their lives trying to make a living in the horse industry are genuine salt of the earth people that are as good of Nebraskans as we can ever find. And so while I appreciate it's not a very great analogy, on the other hand we're talking about people, not birds. Okay. [LB1012]

SENATOR PRICE: All right. Thank you. [LB1012]

SENATOR KARPISEK: Thank you, Senator Price. Any other questions? Senator Dierks. [LB1012]

SENATOR DIERKS: Well, I wonder if some way you could bring into focus, you've had experience, you've seen what's happened, take Ak-Sar-Ben for instance. Over the years it was quite a thriving industry for a number of years ago. [LB1012]

DAN DIXON: Correct. [LB1012]

SENATOR DIERKS: All of a sudden there stopped being people going. Why did people stop going to the races? [LB1012]

DAN DIXON: Well, there's a multiple of reasons. And by the way, people still go to the races when the show is a better show. The Kentucky Derby, routinely 150,000 people attend it. You know, Horsemen's Park in the simulcast facility now, the interest in wagering on horse racing is still there. Simulcasting has changed the way it's delivered and the product mix in a significant way, but the interest is still there. But the interest was so strong and so pronounced and so easy for everyone to see that neighboring states decided, oh, we'd better get into that action, we don't want Nebraska to get it all. States even became competitors by allowing things like lotteries and so forth. Heck, we've approved the wagering of ping-pong balls all around the state in any bar that wants to have it. But you can't wager on a horse race even though it's legal within our state and was, you know, since the '30s. So... [LB1012]

SENATOR DIERKS: But what happened to Ak-Sar-Ben? That's what I'm getting at. [LB1012]

DAN DIXON: Well, all right. So what happened to Ak-Sar-Ben was all those competitive pressures for a finite entertainment dollar started chipping away at what made the business profitable. When it was a unique monopoly essentially for entertainment,

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gambling entertainment, it was relatively easy to make money. In fact, that's one of the reasons our racing laws are so restrictive, because when they were enacted it was a license to print money, and nowadays it's not. It's a very competitive business because of the landscape that we live in, in today's world where other entertainment/wagering opportunities are very, very frequent and available. You couple that... [LB1012]

SENATOR DIERKS: Okay. Now tell... [LB1012]

DAN DIXON: ...I'm sorry, couple that with a great location in the center of Omaha and some civic leaders that decided they felt they had a higher use for that property and so forth, all led...and in a county that took it over that the commissioner ends up having a gambling problem. I mean, you could write a couple of books on it. But it was a perfect storm that essentially closed Ak-Sar-Ben. [LB1012]

SENATOR DIERKS: Okay. Then tell me what adding two more members to the Racing Commission is going to do to improve something like. [LB1012]

DAN DIXON: It won't necessarily do that. What I'm hoping would happen with adding a couple of racing commissioners, is that I believe that the current commission, while they provide a good service, they can only do so much with three people. I'm hoping that with an extra couple of people, maybe some new ideas can be brought forth. Maybe that idea of a united front within the industry led by a volunteer board of, you know, professional people that understand the game, don't have a vested interest as the horsemen do or a vested interest as running the race tracks do, might be able to come to the lawmakers with some clarity and some help to understand exactly what the direction should be and how we should go forward and try to do that. Essentially, if you want my two cents' worth today, I'll tell you I think all the racing laws should be overhauled. That's a heck of a challenge and I'm not trying to do that today. But I would like to propose to you that some new life in the Racing Commission, some new folks in the Racing Commission with a vision that could be developed, could hopefully bring an overhaul to those laws that are antiquated that are holding back and preventing us from competing with neighboring states and other states in the country that are doing very, very well in the horse racing industry. [LB1012]

SENATOR DIERKS: Thanks, Dan. [LB1012]

DAN DIXON: You're welcome. [LB1012]

SENATOR KARPISEK: Thank you, Senator Dierks. Any further questions? Seeing none, thank you. [LB1012]

DAN DIXON: Thank you. [LB1012]

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SENATOR KARPISEK: Further proponents? Good afternoon. [LB1012]

BOB DUNN: Good afternoon. My name is Bob Dunn, B-o-b D-u-n-n. I'm here as an interested person in that...and my background is that from 1974 to 1998 I was the track photographer that followed the circuit, took pictures of all the winners, and so I am acquainted with not only the people and the horses and the system, and so forth. The problem is that the racing industry has not promoted itself. They've done a very poor job of marketing and that's the one step that we need to improve, is to get the image of horse races away from this gambling thing that's going to ruin everybody, into an entertainment factor that it is a...it's an athletic contest just like basketball or football or whatever. And if we can get the media on board to explain that, then there is a real need to reach out to western Nebraska in particular, so that those people could partake by simulcast in racing by horses born, bred, and pay taxes for when they sell, and all that sort of thing, it would improve the marketing of Nebraska, of the horsemen in Nebraska. That change of image is really prime and one of the ways is to have enough people on the board who can reach the...what was five tracks and get them all pumped up to get more people coming to the races. To expand the commission from three to five is basically expense neutral because what little expense is for having a board is just the per diem for their expenses of getting there. So that's not a major item. But by getting the business back into a profitable status, they will have taxes. Every time a horse is claimed or sold, the state gets their sales tax out of that. So we've got to have an active market for Nebraska horses. And by having horsemen willing to step up and...well, especially the people from western Nebraska, if they have some option...let's say a guy in Scottsbluff has a nice horse. His only option to make money with it is to drive clear across Nebraska to at least Grand Island or Omaha for the four days that they get to run and run it so that he can win some of that money, get it back in purses. If they don't have races that are convenient to cooperate, those people don't really have any incentive to breed and raise horses and to partake of racing. So we've got to expand the market. That's the key to this whole racing industry, is marketing, and then to get them to make money off of the handle and all that sort of thing. So expanding to six or eight simulcast stations in western Nebraska will more than help the industry on the eastern half. Let's see any...I made a few notes. It's certainly one thing that the mandate for the commission to live by is that in 1935 a bill was passed to promote Nebraska's horse breeding industry and that's their mandate and they haven't been able to accomplish it. So it's time to step up and go do some marketing that will improve the breeding industry. The industry, when you speak of the industry, is a lot of people who actually pay money to be involved. They have to be licensed in order to be on the track. And I pulled out from my old records. These are just lists of people who are grooms, jockeys, trainers, owners, that if the industry goes under, these people are technically out of a job. They have no way to make money. So the state loses on that end. Are there any other questions? [LB1012]

SENATOR KARPISEK: Thank you, Mr. Dunn. Any questions? Seeing none, thank you

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for your testimony. Further proponents on LB1012. Welcome back, Ms. Schuller.
[LB1012]

LYNNE SCHULLER: Thank you. Chairman Karpisek and members of the committee, Lynne Schuller, S-c-h-u-l-l-e-r, representing the Nebraska HBPA. We support Commissioner Feller and her interest in this bill and we don't have a lot more to add.
[LB1012]

SENATOR KARPISEK: Any questions for Ms. Schuller? Seeing none, thank you.
[LB1012]

LYNNE SCHULLER: Thank you. [LB1012]

SENATOR KARPISEK: Any further proponents? Seeing none, do we have any opponents to LB1012? Neutral? [LB1012]

TOM SAGE: Thank you, Senators. Tom Sage, S-a-g-e. I'm the executive director of the Nebraska Racing Commission. I really don't have much to say about the bill other than I would like to address Senator Krist's question to Ms. Feller, if that would be okay.
[LB1012]

SENATOR KRIST: Absolutely. [LB1012]

TOM SAGE: Okay. You indicated about the fiscal note, a note attached to it. I felt along with working with the Fiscal Analyst that there would be some additional costs to the Racing Commission, roughly \$4,000. That would come from, you know, we roughly have six meetings a year. Depending on where the new members would come from, if they come from, you know, northwest Nebraska, that's going to be a lot more expensive than they're coming from Seward. Along with, we do offer the commissioners usually there's a yearly symposium. It's a training course, training for the commissioners. That's at the end of the year. So that's where we came up with that \$4,000 figure. I don't have anything else. [LB1012]

SENATOR KARPISEK: Thank you. Senator Krist. [LB1012]

SENATOR KRIST: A follow-up. [LB1012]

TOM SAGE: Sure. [LB1012]

SENATOR KRIST: Based upon conversation we've had about both the prior bill and this one, is this the leadership that we need to put the industry back on track? Is this going to be two new people or some folks who are going to sit at a helm and reenergize an industry? [LB1012]

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TOM SAGE: Senator, I don't know that I can really answer that. I haven't analyzed that a lot. I know Commissioner Feller believes it is. Personally, I haven't, you know, enough input to know if that's going to help us or not. It can't hurt. I haven't really talked to the other two commissioners for their opinions and their ideas. I'm just strictly, right now, at a neutral point. I don't know if it would help or not. [LB1012]

SENATOR KRIST: Thanks for your answer. [LB1012]

SENATOR KARPISEK: Senator Coash. [LB1012]

SENATOR COASH: Thank you, Chair. Tom, I just want to ask a question about the last part of this bill which allows the members have an interest. [LB1012]

TOM SAGE: Correct. [LB1012]

SENATOR COASH: And the way I read the change here it says, it changes it from the commissioners to employees of the State Racing Commission. How many employees of the State Racing Commission do we have? [LB1012]

TOM SAGE: Originally with the first draft of the bill, took that section completely out. Myself, along with several of our staff members, spoke with Commissioner Feller and then Senator's office about we were concerned about integrity and the perception of, for example, a veterinarian, our state veterinarian who's out on the racetrack every day. He can make recommendations to scratch a horse. If he scratches the favorite, does that look good maybe? That maybe that somebody saw him ten minutes earlier at the window? I have some of my investigators that had some of the same concern. So that was where it was taken out. What we're talking about is roughly eight employees. [LB1012]

SENATOR COASH: Eight? [LB1012]

TOM SAGE: Yes, sir. [LB1012]

SENATOR COASH: Okay. Thank you. And so veterinarian, a couple of investigators... [LB1012]

TOM SAGE: There would be a veterinarian, there would be a couple of investigators, state steward, licensing staff, three in the test barn, administrative assistant and myself. [LB1012]

SENATOR COASH: Okay. Thank you. [LB1012]

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TOM SAGE: Uh-huh. [LB1012]

SENATOR KARPISEK: Thank you, Senator Coash. Any further questions? Seeing none, thank you. [LB1012]

TOM SAGE: Thank you. [LB1012]

SENATOR KARPISEK: Any further neutral testimony? Seeing none. Senator Rogert to close. [LB1012]

SENATOR ROBERT: Just briefly. Thanks to everybody for coming in. Denny Lee is also on the commission and he wrote this bill for the most part with my staff so the other commissioners are well aware of what we're doing. We're not sneaking anything in on anybody. I think it...Mr. Sage said it pretty good there at the end. We don't know if it's going to help. We think it might and it certainly can't hurt, and we're looking for a lot of ways, many ways, any way to try and revamp the system and make sure the horse racing industry stays alive here. This doesn't cost us any money for the most part to do it. Nobody is against it. It might just be the golden nugget that does it, gets more people involved and the right people involved to help promote the industry and market it throughout themselves as commissioners. So that's what we're looking to do. [LB1012]

SENATOR KARPISEK: Thank you, Senator Rogert. Any further questions? Seeing none, thank you. That will end the hearing on LB1012. We will now open on LB744, Senator Giese. Welcome to the General Affairs Committee, Senator. [LB1012]

SENATOR GIESE: (Exhibit 1) Thank you, Senator Karpisek, members of the committee. My name is Robert Giese, G-i-e-s-e, and I represent the 17th Legislative District, which includes Dakota, Dixon, and Wayne Counties in northeast Nebraska. LB744 is brought on behalf of the State Electrical Board and is designed to allow the board to automatically update the National Electric Code through agency rules and regulations. For 30 years, the bill to update the National Electrical Code was a foregone conclusion in the Legislature. When the code was updated every three years by the National Fire Protection Association, a bill was introduced to update references to that most recent version of the code. Since the current State Electrical Act was adopted in 1975, these bills have come at regular intervals and face no opposition at any level, no opposition testimony at the committee hearing and no opposition on the floor. Many of these bills either made it out of committee quickly enough to be adopted the first few weeks of session or were placed on the consent calendar. For the past two years, the bill to update the National Electric Code to the 2008 version has advanced from the General Affairs Committee on a unanimous vote but failed to pass on the floor. In 2008, Senator Engel introduced LB723 but the bill was ineligible for consent calendar due to the concerns of the Nebraska Home Builders Association. As the committee should well be aware, last session I introduced LB411, which would also have adopted the 2008

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code. With the Home Builders originally opposed to that legislation, they have since changed their position on that bill to neutral, and I am hopeful that LB411 will be passed by the Legislature later this session. That is particularly important since the 2011 version of the code will be available in print within the next few months. Even if the 2008 code is adopted after the two-year delay, however, I believe it is time for the Legislature to find a more efficient way of updating the National Electrical Code. Not having the most recent version of the code has significant consequences for contractors, electricians, and others in Nebraska's construction industry. When LB723 and LB411 were not passed on schedule, as had been the norm for 30 years, many construction projects which had anticipated the adoption of the 2008 code had to be rewritten to meet the 2005 code at a significant expense. More importantly, failure to adopt the most recent version of the code affects our community colleges and technical schools, the very people who train the next generation of electricians to work on Nebraska homes and businesses. At Northeast Community College, for example, students have been taught and trained under the most up-to-date version of the codes, including the National Electrical Code. When the codes are not updated in time, these students are forced to learn the old codes on their own time. In drafting LB744, my office went to great lengths to ensure that the bill would not amount to an unconstitutional delegation of legislative authority. There is significant case law in Nebraska which states that the Legislature may delegate authority that is administrative in its nature, such as making rules and regulations to carry out an expressed legislative purpose or for the complete operation and enforcement of law within designated limitations. In addition, a number of other states have provided for automatic code updates, some with less stringent language than LB744. Because the bill would require the State Electrical Board to adopt the most recent version of the code and any amendments by January 1 the year following the issuance of the code, I believe it provides the board with adequate guidance so far as to not constitute an unlawful delegation of authority. Thank you for your time, and I would be happy to answer any nonelectrical questions. (Laughter) [LB744]

SENATOR KARPISEK: Thank you, Senator Giese. Senator Price. [LB744]

SENATOR PRICE: Senator Karpisek, thank you. Senator Giese, it won't be...this will be a policy question for you. That's within the realm. What was the sticking point that the Home Builders had with the last or with the current national standard? [LB744]

SENATOR GIESE: The last, LB411 was with the arc fault circuit breakers. [LB744]

SENATOR PRICE: And you believe then by bringing this that we could...we should follow...or let me make it into a better question. [LB744]

SENATOR GIESE: We should just automatically update the code. [LB744]

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SENATOR PRICE: But would the commission or would the Electrical Board be allowed to parse out the national code or only if there was something that was controversial not adopt it or do they have to adopt it in whole? [LB744]

SENATOR GIESE: I believe they have to adopt it in whole, but I have somebody that could answer that, that will testify as to that. [LB744]

SENATOR PRICE: All right. Thank you. [LB744]

SENATOR KARPSEK: Thank you, Senator Price. Any other questions? Seeing none, thank you, Senator Giese. [LB744]

SENATOR GIESE: Thank you. [LB744]

SENATOR KARPSEK: Do we have the first proponent of LB744? Welcome. [LB744]

RANDY ANDERSON: (Exhibits 2, 3) Mr. Chairman, members of the committee, I'm Randy Anderson, R-a-n-d-y A-n-d-e-r-s-o-n. I'm the executive director of the Nebraska Electrical Division. We're in charge...I'm in charge of enforcing the National Electric Code. I'm here to testify in favor of LB744. Since 1975, the Legislature has worked hand in hand with the State Electrical Board to adopt the current code and its updates at three-year intervals. The NEC is used as a minimum standard for new electrical installations across the country. Colleges, tech schools, municipalities, electrical contractors, engineers, architects, and so on use this on a daily basis. For over 30 years, the state has led the way with everything running very smoothly. In the 2008 Legislative Session, Senator Engel introduced LB723, which, among other things, would have adopted the 2008 code. The General Affairs Committee, as Senator Giese said, moved that forward unanimously. However, the bill failed. At that time, Senator McDonald was Chairperson of this committee and her and Senator Engel and I know Senator Dubas was involved in asking for more information and we had LR344. And in a sense, we had opposition to the AFCI breaker and what it was going to cost and how it would end the building industry. The testimony stated that this would cost \$1.2 billion and would hinder entry-level homes from being built in Nebraska. The opposition also testified that dwellings could need up to 42 of these devices. LR344 proved that the number of devices needed in an entry-level home was 3 to 5, not 42. LR344 also showed that the \$1.2 billion figure was over twice the national cost, and I want to make note that's the national cost, not Nebraska. There are approximately 305 million people in the country. With 1.8 living in Nebraska, we make up about .006 percent of the people in the nation. Using those facts, that \$1.2 billion figure was twice too high, we'd now be at \$600 million. Now let's take that within Nebraska's .006 percent, this actually had an impact of \$3.6 million on Nebraska. Since the opposition testified they were only concerned with entry-level homes because spec built homes and any of the higher grade didn't have a problem with spending \$200 or \$300 for these breakers. Now we

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lower that to 20 percent of \$3.6 million, now the impact on Nebraska was \$720,000, a total different figure than what was brought to the Legislature of \$1.2 billion raises some eyebrows; \$720,000 statewide, however, is a total different number. Testimony from the opposition also stated the AFCI devices were too new and needed to be tested. In truth, AFCI breakers have been around since 1998. Your State Electrical Board has been on top of this. In fact, I'm already going to meetings about the 2011 code for two years now. So the State Electrical Board heard the same opposition that the Legislature heard. They didn't put it in the 2002. Arc fault became...January 1 of 2002 it went into the code. Through amendments, your State Electrical Board amended that out of the code, waiting for more information. We did the same thing in 2005. We amended it out because there was just so much up-in-the-air testimony. But after 2005, people that were pro arc fault started asking the Electrical Board, okay, we've met all your requirements; why have you not put that in your code? So the board, by board rule, took the amendment out of Rule 18 and the Governor signed that October 31 of 2008. It went into law November 5 of 2008. So that put the arc fault in bedrooms. The change in '08 was it took it into living rooms and other rooms of the house. The cities of Grand Island, Hastings, Kearney, and Omaha have adopted the 2008 code without amendments to the arc fault. Opposition testimony stated Omaha had removed arc fault because there was problems with the device. I'm here to tell the committee Omaha didn't require it so there wasn't problems with the device. It was never installed. It was never a requirement in Omaha until just January 1 of this year when Omaha decided to not wait for the state. Omaha decided to move forward and adopt this code in its entirety as Hastings, Grand Island, and Kearney did because they felt we needed to keep up with the industry. The State Electrical Board is made up of...I'm going to just give you a little insight into who makes up your State Electrical Board. There's a journeyman electrician, two electrical contractors, a certified electrical inspector, a licensed professional engineer, a representative of the public power district which you just saw here this morning, and a representative of a municipal electrical system. So it's a well-rounded group. I am the executive secretary of this board. I have 35 years of experience. I've done nothing in my life but electrical. I'm a licensed electrical contractor, and I hold all five certifications available to be an inspector in the nation. I'm 1 of only about 26 people that hold all five. So I feel that your board members and myself represent you very well on keeping up with what's coming in these codes. Meaning no disrespect to the Legislature, you're not made up of electrical experts. If there are concerns from senators or your constituents, these could be brought directly to the board. If we adopt the code, as Senator Giese said, automatically on January 1, we would have to start holding our hearings in October of 2010, the public meetings and hearings to go forth with changing the rule so that the rule doesn't oppose state law. And that is when citizens, and we've worked with the opponents to this bill before answering questions, and when they couldn't stop the board from adopting it, they moved...they couldn't stop it on a national level so they started a campaign state by state--worked in Nebraska, worked in a handful of other states. They threw a lot of numbers out, got senators concerned about what this was going to cost, and that is why

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I see a problem with having the Legislature deal with which code we should have because that should be left to the experts. There have been comments that the code is too often updated every three years. I would disagree with that. New products are coming out daily. How would we safely install those and implement them if we don't have a code updated at timely intervals? I was going to go into the...I see the yellow light is on. I have some other things I want to cover. I was going to go into code adoption, but I gave you a handout and underlined. As you can see, the 2011 code that Senator Giese referred to that's coming up, they started taking notes on that May of '08. So anybody that says the don't know what's coming, I knew last September exactly what's going to be in the code. There may be a few tweaks, but what's coming we know far in advance. And as your representative, that's my job to stay on top of that, and I think anybody in the industry should also be on top of that. There's been some comments about the fiscal impact. Obviously, we have to buy books when this comes out at a cost of \$51 apiece for a softbound. But I don't see how this legislation changes, whether the Legislature adopts it or whether the board adopts it, where the fiscal impact would change. Our money is budgeted for those materials already. And like I said, I don't see why that would be a fiscal impact. If you adopt the code, we buy the books. If we adopt the code, we buy the books. And that is all I have. Thank you for allowing me to testify today. [LB744]

SENATOR KARPISEK: Thank you, Mr. Anderson. Any questions? Senator Price. [LB744]

SENATOR PRICE: Senator Karpisek, thank you. Mr. Anderson, thank you for coming here and testifying on this. And perhaps you can answer my earlier question. If you were given the ability to adopt the codes, is there any potential that you could see within this legislation where you could adopt most of it and not all if it, in other words, if there was something that did come up? [LB744]

RANDY ANDERSON: Yes. It's written in 81-2104 right now that it says the code and its amendments. And those are all listed in board rule 18, which we have to do the public hearings. The board prefers to adopt it in whole, because when you start trying to second-guess and beat it up, that's when you get people like what happened this last time. People start coming in. And there are good things to the code that save money. In the 2008 code, there's larger panels that actually make construction cheaper in a larger home. But when you single out one piece, we can always say, yes, that costs more money, but we lost the tamper proof for children. You know, there's many things in the code. You can't just pick out that one little piece because overall the code might have saved money on construction. [LB744]

SENATOR PRICE: But you would still have the ability to, if you chose to. [LB744]

RANDY ANDERSON: Yes. [LB744]

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SENATOR PRICE: Thank you. [LB744]

SENATOR KARPISEK: Thank you, Senator Price. Senator Dubas. [LB744]

SENATOR DUBAS: Thank you, Senator Karpisek. Thank you, Mr. Anderson. You know, I've been trying to understand this issue since coming to the Legislature and get frequently contacted by electricians in my district who are very frustrated with the fact that we can't get anything to happen here. I guess just to help me understand this better, in your testimony you talk about Grand Island, Hastings, Kearney, and Omaha have adopted the '08 Nebraska Electrical Code. So individual jurisdictions can adopt it? [LB744]

RANDY ANDERSON: Yes. As the State Electrical Division, we inspect everything that a county or a municipality doesn't inspect. So in Omaha, we inspect all public buildings and all the schools, any state-owned buildings. The city of Omaha has an inspection program that covers everything in their jurisdiction as well as Kearney and Hastings, Grand Island. South Sioux City has residential. There's several small cities, choose to have their own residential. And the State Electrical Act says they have to be as strict or stricter than the state. So they requested permission from the board to move forward. They said, we don't want to wait for you anymore; our people want to move forward. Because they wanted the good part of the '08 code, and they were willing to accept the couple hundred dollar expense of the arc fault. [LB744]

SENATOR DUBAS: So if no jurisdiction went ahead and adopted that, then that's where you would come in and... [LB744]

RANDY ANDERSON: Yes. The day we adopt it, the board gives some cities a year because of how long it takes to go through their legal channels. It says that, you know, the second we adopt it we don't run right out to Omaha and say, you have to do this. We have to give them time to go through their legal channels. And it's usually no more than one year. This year Omaha asked for 13 months because they knew January 1 they were taking the whole code through so the board granted them just a little bit of extra time rather than making them do it twice. [LB744]

SENATOR DUBAS: So if we changed this to allow you to adopt these rules and regs, there would still be a very appropriate hearing process in place so anybody that has concerns will have that opportunity to bring them to you. [LB744]

RANDY ANDERSON: I'm in contact with a lot of them, especially Omaha, Kearney, Grand Island, the larger ones, weekly, sometimes daily if something is going on. We all meet yearly at an annual meeting. A lot of them go to these meetings out of state I told you about to find out how...what's going on with the codes. Yes, we stay very close.

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[LB744]

SENATOR DUBAS: So by going this route, you would be able to address the updated codes in a more timely fashion, but there still would be opportunities for anybody who has any concerns about what's in the code to come forward and talk about it and get it addressed. [LB744]

RANDY ANDERSON: Yes, we depend on their inspection programs of problems they might have had. I take those to the board. And I can tell you that as far as the arc fault there's all kinds of issues about nuisance tripping. Every single one we've investigated, I'm saying every single one is unfounded. It is the breaker working--bad humidifiers, bad switch, wire damaged. We had recently in Lincoln we had a treadmill that was putting voltage on the ground and it was picking that up. But not one, you know, we'll hear...it's always the people that are against it go, ah boy, they nuisance trip. No, they don't. They trip because something is wrong. [LB744]

SENATOR DUBAS: Okay. Thank you very much. [LB744]

SENATOR KARPISEK: Any other questions? Seeing none, thank you, Mr. Anderson. [LB744]

RANDY ANDERSON: Thank you. [LB744]

SENATOR KARPISEK: (Exhibits 4, 5) Do we have any further proponents? I will read into the record a letter of support from the city of South Sioux City and also State Farm Insurance companies. Welcome. [LB744]

CLINTON BURGE: Welcome. Thank you, Senator Karpisek and members of the committee. My name is Clinton Burge, that's C-l-i-n-t-o-n B-u-r-g-e, and I represent the International Brotherhood of Electrical Workers Local 265. It is my pleasure to testify today in support of LB744 which would provide adoption of the National Electrical Code, or better known by those in the industry as the NEC, on a consistent and regular basis. The NEC is updated every three years, and the 2008 version of the NEC failed to advance in last year's legislative session. Therefore, you can see the urgency to adopt the NEC at once, simply because the 2011 version will be in print sometime this summer. The NEC provides for minimum requirements for safe electrical installations. Compliance with the NEC rules provides that electrical systems are essentially free from hazards to persons and property. The new rules in the 2008 code will require more GFCI protection, expanded AFCI protection, and enhanced protection for unsuspecting children from shock or electrocution hazards at receptacles. Consumers deserve reasonable leadership when it comes to matters of safety, and implementing the code in Nebraska on a consistent cycle would certainly be a step in the right direction. A lot of hard work and oversight goes into amending and updating the code every three years

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by a code-making panel. Every article and every section deals in safety. It's this safety that consumers expect and deserve. Again, I support LB744 in its entirety to provide a timely adoption to the latest National Electrical Code which includes the most up-to-date and advanced changes in technology to provide the best safety to Nebraska workers and their families. Thank you. [LB744]

SENATOR KARPISEK: Thank you. Any questions? Seeing none, thank you. Further proponents. Good afternoon. [LB744]

DAVID ENGLER: Good afternoon. My name is Dave Engler, that's E-n-g-l-e-r. I'm the president of Nebraska Professional Firefighters Association. I know very little about electricity, but in my line of work it's scary. But, you know, what's easier than fighting a fire is preventing a fire. And there are 68,000 fires caused by electricity each year or electrical malfunctions, 500 deaths, and thousands of injuries as a result of electrical malfunctions. And this bill keeping the codes up to date ensures that advances in technology are implemented, and those advances will protect the public and prevent fires. And so again, I know very little about electricity, but I do know that preventing a fire is a lot more cost effective than the insurance costs and that sort of thing as a result of a fire. So the professional firefighters are in support of this legislation. [LB744]

SENATOR KARPISEK: Thank you, Mr. Engler. Any questions? I would just ask, don't you think, though, that there is a break-off point where safety and money run not parallel with each other? [LB744]

DAVID ENGLER: Well, I don't know what the cost of implementation of all these codes is. But clearly, anytime you advance technology and you have the ability to put into practice things that make...things that reduce fires...fires are very costly and what's more costly than money itself is the life of a citizen. And so, yeah, I'm sure there are costs and maybe someone can testify to what the cost of the implementation is. But I can tell you it was about \$868 million in fire loss as a result directly attributed to electrical fires last year. And unfortunately, a lot of fires are left undetermined because when you have a gutted out building it's tough to, in a lot of cases, determine that. So the number is probably significantly greater. [LB744]

SENATOR KARPISEK: Thank you. My house burned when I was in sixth grade so I don't want to seem like I don't know what I'm talking about. But I feel that some things may be \$10,000 and you won't have a fire, where do you draw that line? Senator Price. [LB744]

SENATOR PRICE: Thank you, Senator Karpisek, and thank you, Mr. Engler. I got a quick question. Do you see is there any interrelationship between a fire code and electrical code? I mean, would one year's electrical code change drive a change in the fire code and/or vice versa? [LB744]

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DAVID ENGLER: That I don't know. It's my belief, but I may be wrong on this, that they're somewhat in concert with each other, but I'm not exactly sure about that. Maybe someone that's really well-versed on codes could define that better for you. [LB744]

SENATOR PRICE: Because what drives that is a question about the requirement of sprinklers in regular homes. [LB744]

DAVID ENGLER: Uh-huh. [LB744]

SENATOR PRICE: And are those two somehow linked? So I wanted to be careful that we didn't find that someone couldn't get something done in one code so they found a causal relationship to make it happen in another one that's automatically adopted. So you see where I'm headed. Okay. [LB744]

DAVID ENGLER: Not to my knowledge. [LB744]

SENATOR PRICE: All right. Thank you. [LB744]

SENATOR KARPISEK: Thank you, Senator Price. Any further questions? Thank you, Mr. Engler. [LB744]

DAVID ENGLER: Thank you. [LB744]

SENATOR KARPISEK: Further proponents? Good afternoon, sir. [LB744]

JOE KOHOUT: (Exhibit 6) Good afternoon. Chairman Karpisek, members of the General Affairs Committee, my name is Joe Kohout, K-o-h-o-u-t. I'm appearing as registered lobbyist today for the Professional Engineers Coalition. The page is passing out a letter from past-president Jennifer Klein of the Nebraska Society of Professional Engineers and also the PEC representative...the NSPE representative to the PEC board expressing our support for LB744. And I think, Senator Dubas, your question, the question that came up at the board meeting was essentially that and that's where the discussion focused, was that frustration with knowing whether or not the most up-to-date code is in effect. And so that is the reason why they express their support. [LB744]

SENATOR KARPISEK: Thank you, Mr. Kohout. Any questions? Seeing none, thank you. [LB744]

JOE KOHOUT: Thank you. [LB744]

SENATOR KARPISEK: Any further proponents? Good afternoon. [LB744]

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TOM COLPITTS: Good afternoon. Ladies and gentlemen, I am a licensed electrician. I'm here for a different cause but I didn't know this was on the bill today so, anyway, I think it should be adopted. [LB744]

SENATOR KARPISEK: Can you give us your name and spell it? [LB744]

TOM COLPITTS: Oh, I'm sorry. My name is Tom Colpitts, T-o-m C-o-l-p-i-t-t-s. I'm a licensed electrician in the state of Nebraska. I have been for the past five years. The NEC is what electricians live by. I mean we...that's the minimum that we have to...that's the minimum we have to follow in order to maintain safety, and anything that we can do to better that is going to save lives. The cost in the beginning, it's not the same. We have to go back and go to every house that's ever been done and update it. The code is written so they can be like grandfathered in. So new construction would follow this cost of adding the additional GFIs. If a contractor goes into a house and says, hey, we're updating the service, we will go through the house and then again say, okay, these need to be updated to the new code and then at that time that cost is put into the cost of upgrading the service. So I mean the initial cost for new construction, yes, it is a little bit more significant, but over all it's...adopting the code is the best thing to do because it just ensures people's lives. That's basically it. I don't know what else I have, so any other questions? [LB744]

SENATOR KARPISEK: Thank you. Any questions? Would you be in favor of making it not grandfathered in if there's something that's very important that we should go back and make everybody put them in? [LB744]

TOM COLPITTS: That, I can't answer that. I don't know. I would say that the code is written as a grand...there are things that are grandfathered in. They say when the code is adopted, saying they're not going back to go to the first house that was built and then bring everything up to date. It's only when that...when a licensed electrician goes in you are supposed to upgrade what you see. If something needs to be updated then, of course, you say, hey, in order to be within electric code, I have to let you know that this needs to be updated. [LB744]

SENATOR KARPISEK: Very good. Any further questions? Thank you. Glad you could get a two for one today. [LB744]

TOM COLPITTS: Sweet. Thank you. [LB744]

SENATOR KARPISEK: And you can go home now if you'd like to. (Laughter) [LB744]

TOM COLPITTS: Not quite yet. [LB744]

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SENATOR KARPISEK: Any further proponents? Any opponents to LB744? Welcome. [LB744]

JUSTIN BRADY: Senator Karpisek and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist of the Nebraska State Home Builders Association in opposition to this bill. As Senator Giese mentioned, they did go back and change their position on LB411, which was last year's bill, from opposition to neutral, and I'm going to deviate a little bit from what I was going to say. The proponents got up here and talked about how for 30 years the process worked and then it stopped working. In all honesty, it worked because you guys rubber stamped what they wanted. I would argue the process worked. You gave an ability and a forum for citizens of this state to come and say what an administrative body wants to do is wrong. We then continued those discussions with the Electrical Board and, through understanding how they would interpret it compared to how other states or other people felt it was interpreted, we finally got to a point where they were comfortable with how that was going to proceed. So to say the process isn't working, I would say that's not true. It worked absolutely how this body 30-plus years ago thought it should work. Second of all, I would say they do believe the automatic updating is an unconstitutional delegation of authority. Yes, there's some ability and some court cases that said if you're making administrative rules and procedures. This goes beyond administrative rules and procedures. It would change what the law is in Nebraska on an every-three-year basis. Therefore, it is a nondelegated authority of you sending your authority to a third party outside this state to decide what the state of Nebraska's law would be. And so the Home Builders believe that they should still have the ability to come back to this body and raise concerns on what's happening with the Electrical Act or any other act that comes before the Legislature. So with that, I'd try to answer any questions. [LB744]

SENATOR KARPISEK: Thank you, Mr. Brady. Any questions? I'd ask, Mr. Brady, and I know this would maybe only be your opinion but Senator Giese did bring up the constitutionality of this and I just wonder what you feel about that. [LB744]

JUSTIN BRADY: I feel it goes beyond...it is unconstitutional because it goes beyond just the typical, if you will, administrative rules and procedures. I mean it is actually saying the law of Nebraska is this. It's not like where...other agencies where you say, and you have the ability to make rules and regs still under the onus of...and the state law is this, of which you guys set. This would then allow a third party to set the state law and then the State Electrical Board would then be able to do their rules and regs under that. [LB744]

SENATOR KARPISEK: Very good. I just know that was brought up and hopefully Senator Giese will talk toward that in his closing too. Thank you. Further questions? Seeing none, thank you. [LB744]

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JUSTIN BRADY: Thank you. [LB744]

SENATOR KARPISEK: Any further opponents? Any neutral testimony? Seeing none, Senator Giese to close. [LB744]

SENATOR GIESE: Thank you, Senator Karpisek, members of the committee. I think this points out again this year the...where we're at with trying to update the electrical code and some of the decisions that I think that we make obviously have been pointed out in LB411 and now this bill this year. And I really don't think that the Legislature really shouldn't be the place that decides whether arc faults are good or bad or...that's something that I would leave to the State Electrical Board. As far as the constitutionality, I'm not a lawyer or an electrician. The only thing I will point out is that it has been...other states are doing it now so that avenue is being done and I would just point out those specific issues with the bill and why we shouldn't be making electrical decisions and would just urge the committee's support and would answer any questions. [LB744]

SENATOR KARPISEK: Thank you, Senator Giese. Any further questions? Seeing none, thank you. [LB744]

SENATOR GIESE: Thank you. [LB744]

SENATOR KARPISEK: That will end the hearing on LB744. We will now go to LB985 and LR296CA. We will hear them together. Senator Dierks, could you assume the chair, please? [LB744]

SENATOR DIERKS: Certainly. [LB985 LR296CA]

SENATOR KARPISEK: Are you ready, Senator Dierks? [LB985 LR296CA]

SENATOR DIERKS: Well, I'm going through a little difficulty up here with the committee, but I think we're ready. [LB985 LR296CA]

SENATOR KARPISEK: Now you know what I deal with. [LB985 LR296CA]

SENATOR DIERKS: Go right ahead, Senator Karpisek. [LB985 LR296CA]

SENATOR KARPISEK: (Exhibits 1, 2) Thank you, Senator Dierks and members of the General Affairs Committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. LR296CA and LB2...boy, I can't get this number right, LB985 would allow for charitable poker events in Nebraska. I will tell everyone that this is my priority bill. My other priority bill was killed in another committee, so here we go with this one. Reasons that I brought this bill are because

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charitable organizations are hurting. This constitutional amendment would provide an important fund-raising tool for nonprofits and volunteer fire departments. I have a letter of support from the American Lung Association for the committee members. If those of you that were here remember how much the Lung Association beat me up on my position on smoking...on the smoking ban, you can imagine how surprised I was that they would come in, in support of any of my bills. The American Lung Association is one example of a nonprofit that has recently faced serious challenges raising money and there is a direct correlation between their fund-raising struggles and the downturn in the economy. In 2009, their corporate support decreased 57 percent and individual giving decreased 18 percent. This constitutional amendment simply gives organizations like the American Lung Association another tool in their toolbox. I would again like to point out that this is a constitutional amendment that would be sent out to the people to vote on. How this would work is the enabling legislation, LB985. The details are found there and, again, we would have to pass this before we would come back and try to pass LB985 next year. The enabling legislation was modeled after the Pickle Card Act and the same organizations that qualify for selling pickle cards under the Pickle Card Act would qualify for hosting charitable poker events under the Charitable Poker Act. Keep in mind that this enabling legislation is simply a framework and would need to be passed next year if the people voted to pass the constitutional amendment this year. The enabling legislation would put limits and restrictions on how charitable poker events would operate. Eligible organizations would be limited to four charitable events a year and participants could not lose more than \$1,000 at any event. Keep in mind that most charitable poker events would likely be tournaments with buy-ins much less than \$1,000, but it was important to me that a safeguard limit be put in place. Nonprofit organizations and poker event operators would need to be licensed. Licensed organizations could contract with a licensed poker event operator or run the event themselves, and either way they would have to be licensed by the state. These charities need our help more than ever. As a state, we've made exemptions in the past for gambling, especially when it's for nonprofits. Senator McCoy was concerned about keno going to his nonprofits with the other bill that I had. I think this would address that. I am asking for one more exemption. Help me try to help some of these organizations. We have also put in here fire departments, ambulance squads, those sort of things that usually get their money through taxes. Maybe if they can do some of these things other than a bake sale to try to get themselves new ambulances or new fire trucks, they'd be able to turn to this. I have also handed out a flier from the judges and Bar Association charitable fund-raiser, which I think is just rather ironic that they have one but if there's a buy-in it's illegal. I don't know that this one was illegal, but I still found it rather humorous that they would be having one. We hear of Texas hold 'em tournaments everywhere, we hear of poker nights, VFWs having them, Legion Clubs having them. This is a way that the state could make some money off of these things, make them legal, and get everyone involved and hopefully make some money for these nonprofits, only nonprofits, four times a year. Any questions, I'd be glad to take them. [LB985 LR296CA]

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SENATOR DIERKS: Questions? Senator Coash, please. [LB985 LR296CA]

SENATOR COASH: Oh, thank you, Senator Dierks. Senator Karpisek, I guess I'm just trying to understand how this might work should this be enacted. If this becomes law and an organization like the Lung Association wants to have a poker tournament and let's say I enter that tournament and there's a buy-in, do I...can I take my...do I get a percentage of my winnings or does everything that's bought in go to charity and we play the game for fun? How does it work? [LB985 LR296CA]

SENATOR KARPISEK: It would be on a percentage payout. [LB985 LR296CA]

SENATOR COASH: Okay. [LB985 LR296CA]

SENATOR KARPISEK: And 10 percent, it would...after all the expenses, so your net profit, 10 percent would go to the state and I think it's on 20...I mean 80 percent payback. [LB985 LR296CA]

SENATOR COASH: And then how does the charity organization, which percentage do they get? [LB985 LR296CA]

SENATOR KARPISEK: They would get the 20. [LB985 LR296CA]

SENATOR COASH: They get the 20; 10...and an extra... [LB985 LR296CA]

SENATOR KARPISEK: Ten percent already out of that, yes. [LB985 LR296CA]

SENATOR COASH: So that the state gets their 10 out of the 20... [LB985 LR296CA]

SENATOR KARPISEK: No. I'm sorry, get their 10 out of...that would be the expense part. Legal counsel is going to help. [LB985 LR296CA]

SENATOR COASH: Okay. [LB985 LR296CA]

JOSH EICKMEIER: It's basically set up as much as 50-50 for the players and their payouts versus what the organization can take. And of the organization's take or their net profit, 10 percent would be taxed by the state. [LB985 LR296CA]

SENATOR COASH: Okay. [LB985 LR296CA]

JOSH EICKMEIER: But there is... [LB985 LR296CA]

SENATOR KARPISEK: So... [LB985 LR296CA]

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JOHN EICKMEIER: Oh, I'm sorry. [LB985 LR296CA]

SENATOR KARPISEK: Go ahead. [LB985 LR296CA]

JOSH EICKMEIER: I was going to say that from the players' standpoint, they could have a buy-in, let's say \$50 a tournament, for example, and they could win whatever the percentage, whatever. It's however it's set up so that it meets the percentage for the payout. As far as like the handout, the way they do theirs is they have a buy-in, so to speak, but they can't win prizes. That's how they can have their tournaments without violating the constitution in law. If they were to give out prize for how you finished--first place, second place, third place--they would be in jail. [LB985 LR296CA]

SENATOR COASH: Okay. [LB985 LR296CA]

JOSH EICKMEIER: They'd be on the other side of the... [LB985 LR296CA]

SENATOR KARPISEK: So I was wrong on my numbers, 50-50. [LB985 LR296CA]

SENATOR COASH: I was trying to figure out how much of a total winning goes to the charity, how much goes to the state, and how much...the idea here is the player can get some back too. Right? [LB985 LR296CA]

SENATOR KARPISEK: Yes. [LB985 LR296CA]

SENATOR COASH: Okay. Thank you. [LB985 LR296CA]

SENATOR DIERKS: Senator Krist. [LB985 LR296CA]

SENATOR KRIST: Already asked. Thank you. [LB985 LR296CA]

SENATOR DIERKS: Any more questions for Senator Karpisek? You're free to go. [LB985 LR296CA]

SENATOR KARPISEK: Thank you, Senator Dierks. [LB985 LR296CA]

SENATOR DIERKS: Is there a proponent for LR296CA? [LB985 LR296CA]

JERRY STILMOCK: Thank you, Senators. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my client, the Nebraska State Volunteer Firefighters Association, in support of these measures. Several years ago, not when I was here, the volunteer fire services, both fire and rescue, were allowed to sell pickle cards. Why? I think primarily because the volunteer services in the communities throughout Nebraska have always been community spirited people. They are the ones

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who volunteer. They are the ones who volunteer in life-threatening situations. That...those are the types of people that join in and serve the communities in which we live in. Those are the people that serve in the communities that protect and provide services up and down I-80, up and down Highway 81, up and down Highways 73, 75, the major routes of travel in Nebraska. In another committee, we have the opportunity to share, my client and I have the opportunity to share with members of that committee that there are nine counties in the state of Nebraska that deny volunteer fire...or that deny fire districts an opportunity to levy any taxes, and then it causes one to stop and hesitate: Well, are fire and rescue services a discretionary function of government or are they a necessity? And hopefully the members of the committee would agree with me that they are a necessity; that certainly at the top of the board for services have to be fire and rescue protection throughout the state. So then why support these measures? I can tell you, I don't know of one community that has had a fund-raiser to go out and buy a new utility truck for the street department, but I can tell you there are several communities that have had fund-raisers to generate funds in order for the volunteers to purchase, whether it be firefighting equipment or new trucks, a rescue squad or equipment on that rescue squad. So it's in the flavor and nature of the past service that volunteers have done in their communities throughout the state that my client has chosen to become involved in support of these measures. I'm not a gambler, wasn't raised in a gambling household, but I think certainly with...Senator Karpisek had to say in terms of charitable gaming being down and reduced significantly, this would be one way. And certainly if a community of volunteer fire and volunteer rescue providers want to assemble and provide one of these events, this would be a mechanism to do so. And obviously, by the constitutional amendment, that would have to be the forerunner of these items, it would give the people of Nebraska an opportunity to decide whether or not, in my situation, for my client, volunteer fire and volunteer rescue, firefighters...or volunteer firefighters and rescue personnel would be able to use these fund-raising tools. For those reasons, we'd ask the committee to advance LR296CA to the floor. Thank you. [LB985 LR296CA]

SENATOR DIERKS: Thank you, Jerry. Questions? Senator Coash. [LB985 LR296CA]

SENATOR COASH: Thank you, Senator Dierks. Jerry, are we going to turn volunteer firefighter halls across the state into poker parlors with this? [LB985 LR296CA]

JERRY STILMOCK: Boy, I hope not. I hope not. [LB985 LR296CA]

SENATOR COASH: Are we protecting ourselves against that in this bill... [LB985 LR296CA]

JERRY STILMOCK: You know, the limitations... [LB985 LR296CA]

SENATOR COASH: ...or amendment? I'm sorry. [LB985 LR296CA]

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JERRY STILMOCK: No, I'm sorry. Please. [LB985 LR296CA]

SENATOR COASH: No, I just said that's not a bill. We're talking about a constitutional amendment. Are we protecting against that through this? [LB985 LR296CA]

JERRY STILMOCK: I think it would be a double-edged sword--how far do you go and what are the limits? If volunteers were funded, if volunteer services were funded by the governments in which they serve, I doubt very seriously we would be here. But we do have severe horror stories of volunteers in remote...volunteers in places in Nebraska that they just don't have the tax dollar support to do these things. [LB985 LR296CA]

SENATOR COASH: Okay. Thanks. [LB985 LR296CA]

JERRY STILMOCK: Thank you. [LB985 LR296CA]

SENATOR DIERKS: Senator Price. [LB985 LR296CA]

SENATOR PRICE: Thank you, sir. I have a question for you there, Jerry, and that is...and I'm looking at this and it says about an organization will only be able to do four events a year. And in your mind is that organization like one fire department, not each firehouse? So if you had a volunteer fire department the size of Bellevue's that there would only be...the organization would be the entire Bellevue Fire Department but not just house 3 and house 2 and house 1? [LB985 LR296CA]

JERRY STILMOCK: I would agree with the way you've analyzed it, Senator. It would be the entire volunteer...the entire Bellevue Fire Department. They're pushing towards no longer being volunteer but, yes, it would be the entire department as compared to a separate station within that department, sir. [LB985 LR296CA]

SENATOR PRICE: All right. Thank you. [LB985 LR296CA]

JERRY STILMOCK: Yes, sir. [LB985 LR296CA]

SENATOR DIERKS: Any more questions? Senator Coash. [LB985 LR296CA]

SENATOR COASH: Got one more for you, Jerry. [LB985 LR296CA]

JERRY STILMOCK: Yes, sir. [LB985 LR296CA]

SENATOR COASH: This was just interesting to me, what Senator Karpisek passed out. We've got judges and attorneys doing a charity tournament. Couldn't the volunteer firefighters do this or do they currently do events like this to raise money? I mean this

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was a fund-raiser for the Lawyers Foundation. Can...I mean, do you know, are the volunteer firefighters? I mean this is legal. They're doing this. Is this something that volunteer departments are taking advantage of? [LB985 LR296CA]

JERRY STILMOCK: Senator, I try to keep my...the pulse of the fire departments throughout the state, but I'm not aware of fire departments participating in the type of events described by the bar and bench. [LB985 LR296CA]

SENATOR COASH: Okay. Thank you. [LB985 LR296CA]

JERRY STILMOCK: Yes, sir. [LB985 LR296CA]

SENATOR DIERKS: Other questions? Thanks, Jerry. [LB985 LR296CA]

JERRY STILMOCK: Thank you, Senators. [LB985 LR296CA]

SENATOR DIERKS: You bet. Proponents? Any more proponents for LR296CA? [LB985 LR296CA]

BRIAN PICK: (Exhibit 3) Hi. My name is Brian Pick. I'm the sales manager at Linoma Software in Ashland, Nebraska. I'm also a CPA and I was the one to kind of get these guys on the idea last summer to look into something like this because I've been... [LB985 LR296CA]

SENATOR DIERKS: Can we have you spell your name for us, Brian? [LB985 LR296CA]

BRIAN PICK: Oh, I'm sorry. B-r-i-a-n P-i-c-k, Pick. [LB985 LR296CA]

SENATOR DIERKS: Thank you. [LB985 LR296CA]

BRIAN PICK: All right. So I talked with Senator Karpisek last summer about this idea because I know some people in Michigan who play poker and they were talking about those poker rooms in there and how these charities are loving them. And so that sounded interesting to me to look into that for Nebraska. I do want to start off by saying I've heard a lot of people talk about the objections to this but I do want to make sure it's clear that I do not openly...this isn't supporting casinos in any way. It's not opening the door for casinos. That's not my intention on this. I'm not trying to legalize video poker. I'm just trying to...I'm supporting the social game of poker that is played with friends and others where a designated percentage of the proceeds are allocated to approved charities. And the reason I'd like to see charity poker in Nebraska legal, I got three reasons for that. First off, like Senator Karpisek was saying, the charities are struggling. Donations are down and many of the charities that rely on bingo as a source of income

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have seen that revenue decline. In order for charities and other nonprofits to stay afloat, they have to rely on various types of fund-raising activities, including car washes, selling items such as magazines, wrapping paper, chocolates, coupon books, cookie dough, and much more. If they're not able to generate the required additional revenue, they will have to reduce the services they provide or reduce their staff. In addition, members of these organizations and parents are expected to commit more of their time and money in order to help these organizations. As a parent, I know I've been asked by my kids to help sell various items and also I've been asked from people at work to buy stuff from their kids, so it's very common. And these activities raise maybe several hundred dollars but still require substantial effort from everyone involved. Charity poker events only require a few people from the charity to manage the event and they can make anywhere from a few hundred to a few thousand dollars in one charity poker event. An example of someone who could benefit from a charity poker event would be the Holy Name Catholic grade school in Omaha. A charity poker event isn't going to raise the required \$300,000 to stay open, but it could raise several thousand dollars which will help in reaching that goal. A second reason I think it would be beneficial is it will help existing businesses and create new businesses in Nebraska. The charity events could be hosted and completely managed by the charity but more than likely they'd probably run it at a restaurant, at a golf club, bowling alley, or a bar that had a large enough room to handle several poker tables. These locations receive rental income in addition to additional revenue in the sale of food and beverages during the charity poker event. Then new businesses will pop up that will specialize in managing and running businesses like this. The third item I think that would be beneficial is the state will receive additional revenue. Charity poker events will be regulated by the state. The charities must apply for a permit to be able to sponsor a charity poker event. This includes a fee. The legislation also includes a tax they have to pay on the profit they've realized from the charity poker event. Businesses that manage these charity events will have to pay a fee to the state with their application too. An example of how this works is in 2008 Michigan received over \$4 million from those fees and charities received over \$10 million from these hosted poker events. I've read several stories where these charities have said without poker events they would not have stayed afloat in Michigan. And as you know, Michigan is a highest unemployment state or the highest unemployment in the country. In Michigan, charities are on a six-month waiting list before their applications to sponsor a charity event can be reviewed. These charity events are very popular there. When I was researching this, I was amazed at how much revenue is being generated for the charities in the state. The senators here have made it pretty clear that most new spending bills will not be considered. This bill is designed to generate new revenue for the state and the charities. Why charity poker? Charity poker is a very popular choice for fund-raising because it's easy to manage. It will oftentimes only require a few people to help supervise the event. The up-front fees for the charities are very affordable. It's a fun, social way for a group of people to get together to help raise money for their organization. A person can spend a nominal amount of money, socialize, meet new friends, and help the charity playing a fun game of cards. Virtually

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anyone can participate and help raise money for this charity. Poker is very popular with people regardless of their age. Poker is not purely a game of chance like keno and bingo. How you play poker impacts how you do in a tournament, which is why so many people like it. Yes, poker is played in casinos, but it's the only game where you're not playing against the casino. You're playing against other players. There are limits on how much a person can lose with charity poker. Like Senator Karpisek said, it's a \$1,000 limit per event, but in reality though most charity events will be \$30 to \$50. And that's a good source of entertainment for people and, at the same time, they're helping charities out. Compare that to other types of entertainment, like a movie or a Husker game. They'll be spending that and much more. And some people, you know, prefer this type of entertainment and they could help somebody, so it's a great plus for them. And people will not turn into problem gamblers because charity poker is available on the weekends. I mean, they're playing \$30, \$40, \$50 once a week, maybe a couple times a month. It's not going to encourage or support a gambling habit. Charities want to be able to sponsor charity poker events. I spoke with the head of the Omaha Fraternal Order of Police and he said they would love to be able to host a charity poker event to raise money. He said their annual raffle drawing just doesn't generate as much revenue as it used to and he's confident a poker tournament would be very successful. Recently, I was asked by a person who was helping to raise money for the American Cancer Society if I could help them run a charity poker event. They were surprised when I told them that it wasn't legal, as they said they've seen other charity poker events being promoted in Nebraska. And I said, yeah, I've seen those as well but those aren't legal. I've been invited to several of them. I mean let's face it, charity poker events are already being held in Nebraska. The lawyer one that Senator Karpisek was referring to earlier, they may get 10, 20, 30 people there and if they're not paying out any money they get decent money for the charity. But if you have it where they're actually receiving some prizes, you're going to triple and quadruple the number of poker players that are going to play in it because most poker players aren't going to just play for the fun of it. They want to play and have a chance to win some money, and if they can also help a charity it's all the better. Another example is even Warren Buffett, who has been quoted on Gambling with the Good Life Web site saying gambling is a tax on ignorance, has played in a charity poker tournament. Back in 2006, December 2006, Buffett played in a charity poker tournament to benefit the Nebraska Chapter of the Make-a-Wish Foundation. He may be against slot machines but it appears he isn't against a social, entertaining type of fund-raiser like poker. In summary, again, I want to emphasize that I'm not endorsing this legislation with the hope of opening doors to casinos in Nebraska, slot machines, or video poker. I simply think legalizing charity poker in Nebraska will benefit charities, businesses, and the state. Charity poker is very similar to charity golf tournaments--requires skill and some luck to win and a portion of the proceeds are paid to the winners, a portion to cover expenses, and a portion to the charities. So I would like to ask you all to consider it and allow it to go to the floor to be discussed. That's it.
[LB985 LR296CA]

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SENATOR DIERKS: Thanks, Brian. Questions? I guess not. Thank you. [LB985 LR296CA]

BRIAN PICK: All right. [LB985 LR296CA]

SENATOR DIERKS: Other proponents for LR296CA? Anyone else in favor? Are there opponents to the bill? [LB985 LR296CA]

PAT LOONTJER: Somewhere in here I've got that sheet of paper you want. There it is. Senators, I'm Pat Loontjer. It's spelled L-o-o-n-t-j-e-r. I live at 2221 South 141 Court in Omaha, Nebraska, and I am here as executive director of Gambling with the Good Life. And Gambling with the Good Life was formed 15 years ago to oppose expanded gambling in the state of Nebraska. We felt like most of the citizens have felt, judged by the three times it has been on the ballot already, that enough is enough. What we've got here is enough and we would like to see that not be increased in any way, shape, or form. As I was going through the piece of legislation, the resolution is just a couple pages long, but the amendment to get this thing changed and all of the ramifications is 141 pages and within this document, as I was going through and just scanning it as I was waiting, it is consistently referred to as a gambling scheme and that's exactly what this is. This is a new form of gambling. It is a form that we've never had in the state before and the voters have rejected it time after time and any expansion of what we've got, let alone to bring in a brand new form. And I think when we heard the debate last week, so many of the senators on the floor that were struggling with that decision were saying we would vehemently oppose anything that's brand new and this is brand new. I wanted to mention to you that the gentleman that testified before me, Brian Pick, and pointed out all the advantages that it would be to charity, is also the person who manufactures the poker tables and I've sent you all today the Web site so that you can see what the motive is there. You know, when they say that you could lose just \$1,000 an event, I'm not sure if that means a day or the whole four-day run that they're proposing. But when a spouse comes home after having lost \$1,000 in an event, there's going to be some dissension in that household. It's going to be some heartache. It's going to be money that's not going to pay the rent, that's not going to buy the kids new clothes. It's going to cause problems. And the small amount of revenue that might be generated by this after everything else is taken out--the proceeds that go to the winners and then the section that goes to the manager of the event--and then a portion goes to compulsive gambling is very, very small in consideration with what it's going to do with our state budget because the statistics nationwide show that for every \$1 a state gains in gambling revenue it costs them \$3 in social costs. So this is a no-win for the state of Nebraska. And the thing that almost is more important than everything else that I've said is that if we pass a law like this, it's going to open the state wide open for Native American gambling because the Indians are allowed to have anything that's legal by federal law. So the minute that we make poker rooms or poker palaces or poker tournaments legal, they will be allowed to do those. They will be virtually unregulated.

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They will be unrestricted. They will be untaxed. Now we've seen this, as what happened with Carter Lake recently, that they took the land, put it into trust and tried to build a casino there. We defeated that. But they are held to no law. When the three casinos opened up in Council Bluffs and the two Indian casinos up the river were vastly hurt, they lowered their gambling age to 18. That was challenged by the state of Iowa as being illegal and the state of Iowa lost. So we are opening, with this proposal, a can of worms that we'll never be able to shut again. So I would ask you, please, not to even let this see the light of day, don't get it out of committee because it's going to cause heartache for families in Nebraska. [LB985 LR296CA]

SENATOR DIERKS: Thanks, Pat. Questions? Senator Price. [LB985 LR296CA]

SENATOR PRICE: Senator Dierks, thank you. Ms. Loontjer, I would like to touch on a piece of your testimony there. You're saying that passage of this would create Class III gambling? [LB985 LR296CA]

PAT LOONTJER: Well, anything that is allowed in the state is federally given to the Native Americans, the Indians. [LB985 LR296CA]

SENATOR PRICE: So then you're saying Class III gambling wouldn't be the threshold it...an Indian gambling establishment would have to abide by. [LB985 LR296CA]

PAT LOONTJER: They wouldn't be allowed to have slot machines but they would be allowed to hold the poker palaces and they wouldn't be restricted to four times a year and four days or \$1,000 minimum. They would not be bound by any of the rules that you have in here. [LB985 LR296CA]

SENATOR PRICE: So would you also be saying then they would not be bound having it as a charitable event? [LB985 LR296CA]

PAT LOONTJER: No, I don't believe so. That's not what happened in...I believe it's the state of New York. The Native Americans challenged the state because they were allowing casino nights for charitable events, just a one-night, you know, Las Vegas night, and the Native Americans came in and said, if you're allowing that, we're allowed to have the casino full blown, and they took that and now have full-blown casinos. [LB985 LR296CA]

SENATOR PRICE: Right. Thank you. [LB985 LR296CA]

PAT LOONTJER: Any other questions? [LB985 LR296CA]

SENATOR DIERKS: Any more questions? Senator Krist, please. [LB985 LR296CA]

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SENATOR KRIST: I am aware of the legal precedent that was set by other states in the fact that the federal land, as established by the sovereign nation of the Indians, would then be able to use that for the expansion of gambling within the states. I have looked at the number of Indian-owned properties and understand that if they establish a land lease program that they would then be able to use the same thing inside, no question. [LB985 LR296CA]

PAT LOONTJER: Okay. [LB985 LR296CA]

SENATOR KRIST: My question is... [LB985 LR296CA]

PAT LOONTJER: Okay. [LB985 LR296CA]

SENATOR KRIST: ...do you not trust the citizens of Nebraska to be able to vote and tell us what they want? Because the two of these things are completely different. One bill says we're going to enable it, we're going to make it happen; the other one says we want you to tell us, we want to put this on the ballot and let you tell us again. And the argument that we've done it three or four times, I got to tell you, I don't care how many times we ask the citizens, it is their state and I believe we should. So I'd just like you to respond to that because it's very important to me to give them, the taxpayers, the people who vote me into office, the opportunity to tell me what they want. [LB985 LR296CA]

PAT LOONTJER: Well, if this goes on the ballot then it's going to be our responsibility, because it will be a very minute, you know, just adding poker palaces to the existing law. Then it will be up to us to have to educate the whole state as to what the ramifications would be as far as the Native Americans because it's not going to mention that on the ballot but it is, it's exactly what would happen. And, you know, we've been through this three times and it's a tremendous job to try to...it's a huge state and it takes a tremendous amount of volunteer effort to be able to get the whole truth out to the people to vote. [LB985 LR296CA]

SENATOR KRIST: Okay. Thank you. [LB985 LR296CA]

SENATOR DIERKS: Other questions? Senator Cook. [LB985 LR296CA]

SENATOR COOK: Thank you, Senator Dierks. Thank you for coming here today. [LB985 LR296CA]

PAT LOONTJER: Thank you. [LB985 LR296CA]

SENATOR COOK: You mentioned that the voters have rejected charitable...this particular proposal three times? [LB985 LR296CA]

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PAT LOONTJER: No, no, no, no. No, no. Uh-uh, just expanded gambling. [LB985 LR296CA]

SENATOR COOK: Because in your testimony you said that they rejected this before. [LB985 LR296CA]

PAT LOONTJER: Expanded gambling. [LB985 LR296CA]

SENATOR COOK: Okay. So any... [LB985 LR296CA]

PAT LOONTJER: Yeah, in 1996 they rejected off-track betting, and then in 2004 they rejected casinos, and in 2006 they rejected keno machines. [LB985 LR296CA]

SENATOR COOK: Okay. Can you offer me a definition, I've heard the term bandied about, "poker palaces"? What does that mean? Does it (inaudible) kind of something catchy that illiterates? [LB985 LR296CA]

PAT LOONTJER: I see it as...well, I just see it as that is the purpose of the whole room, the whole building, much like the Native Americans have bingo palaces or bingo...they're not casinos but they're set up for the purpose...they're only generating one form of gambling. [LB985 LR296CA]

SENATOR COOK: Okay. So what you're imagining is that through this law there would be some place that every single day someone... [LB985 LR296CA]

PAT LOONTJER: Oh, yes. [LB985 LR296CA]

SENATOR COOK: ...could come and get into... [LB985 LR296CA]

PAT LOONTJER: Oh, absolutely. [LB985 LR296CA]

SENATOR COOK: ...a poker game, a limitless poker game. [LB985 LR296CA]

PAT LOONTJER: Uh-huh. Uh-huh. Uh-huh. [LB985 LR296CA]

SENATOR COOK: That's what you're imagining would happen with this. [LB985 LR296CA]

PAT LOONTJER: I believe it would because that's what's happened in Iowa. You know, the casinos are running 24/7 and... [LB985 LR296CA]

SENATOR COOK: But this is not a casino. [LB985 LR296CA]

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PAT LOONTJER: No, no. It would be...it would be dedicated to poker. [LB985 LR296CA]

SENATOR COOK: This is...this would be a poker game for...okay, and this would be to ask for a poker game dedicated for charitable purposes with a limit up to \$1,000. [LB985 LR296CA]

PAT LOONTJER: But see, the Native Americans would not be held to this. As long as there's just one sentence saying that poker is legal, would be allowed where you could exchange money, not prizes, which a lot of the poker tournaments do now, you can come in and play but you win for prizes at the end or a trophy, but the minute we move it over to a betting situation, they're not held to the requirements of age limits or amounts or days of the week. They're exempt from that because they're a sovereign nation. [LB985 LR296CA]

SENATOR COOK: All right. Thank you. [LB985 LR296CA]

SENATOR DIERKS: Other questions for Pat? I guess not. Thanks for coming, Pat. [LB985 LR296CA]

PAT LOONTJER: Thank you. [LB985 LR296CA]

SENATOR DIERKS: Other opponents? Go right ahead, sir. [LB985 LR296CA]

JOHN NEUBERGER: (Exhibit 4) Good afternoon, Mr. Chairman and members of the committee. My name is John Neuberger. That's spelled J-o-h-n N-e-u-b-e-r-g-e-r. I reside with my wife Arlys at 6133 Old Farm Court here in Lincoln. I volunteer much of my time to help families avoid bankruptcy and then to begin to live within their incomes. We use a Money Map system to...we developed to help folks assess where they're at financially, personal finances, and to help them get back on a road to financial freedom. And I'm not here this afternoon to oppose legalized gambling in our state, per se, but to oppose expanded gambling in Nebraska. I ask you help in a couple areas. I've worked with over 300 families that are struggling with financial woes and I'd like to offer you this premise for your deliberations. The gambling dollars should come out of a family or a single person's discretionary income, and by that I mean it's the amount of an individual's income that is left for spending on such things as gambling, investing, or savings after their taxes and personal necessities, such as food, shelter, and clothing, have been paid. Discretionary income then also includes that portion of an individual's income that's spent on luxury items--vacations and nonessential goods and services. Some people will use credit cards, or borrowing of money, to purchase discretionary goods, like gambling, but increasing your personal debt level with revolving credit is not the same as having discretionary income. Since gambling has addictive qualities, public

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policy needs to help our people by discouraging them from using their nondiscretionary income and their credit card borrowing capability for any type of legalized gambling. If you could help us in that area, you'd be helping the financial coaches like myself and other professional financial counselors that work with people that are in financial bondage which can result in bankruptcy. Because all gambling is addictive and we already have many legalized gambling games to spend one's discretionary money on, I'm opposed to these two bills, LB985 and LR296CA. Having said that, I'd urge the committee to do three things--don't expand gambling in Nebraska; send a message to our citizens that gambling dollars need to come from discretionary income; and don't borrow to gamble--and you would really help us as we try to help people, Mr. Chairman, stay...live within their income and stay out of bankruptcy in Nebraska. If you have any questions, I'd be happy to answer them. [LB985 LR296CA]

SENATOR DIERKS: Thank you, John. Questions? I don't think I can let you get away without answering some. You know, I've got a huge gambling problem and I think it's just because I'm still trying to raise cattle. Do you suppose you could help me with that? (Laughter) [LB985 LR296CA]

JOHN NEUBERGER: Yeah, I grew up on a farm myself, Senator. I know all about that risk. [LB985 LR296CA]

SENATOR DIERKS: Okay. Thank you very much. [LB985 LR296CA]

JOHN NEUBERGER: And Nebraska is very blessed. I grew up in South Dakota and you have to have water available for agriculture. [LB985 LR296CA]

SENATOR DIERKS: Yeah. Yeah. Other opponents, please? [LB985 LR296CA]

SENATOR COOK: I have a question. [LB985 LR296CA]

SENATOR DIERKS: Oh, wait a minute. I'm sorry, John. [LB985 LR296CA]

JOHN NEUBERGER: Have a question? Yes, excuse me. [LB985 LR296CA]

SENATOR DIERKS: Senator Cook has a question. [LB985 LR296CA]

SENATOR COOK: Yes. Thank you. In your third to the last paragraph, "all gambling is addictive," upon what do you base that statement? [LB985 LR296CA]

JOHN NEUBERGER: Well, just talking to the counselors that I've talked to that deal with people with gambling addictions and gambling problems. [LB985 LR296CA]

SENATOR COOK: So anybody who engages in any level of... [LB985 LR296CA]

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JOHN NEUBERGER: (Inaudible) yeah. [LB985 LR296CA]

SENATOR COOK: ...like put a penny in a slot and walk away, you would consider that to be addictive practice or behavior? [LB985 LR296CA]

JOHN NEUBERGER: Well, it's the potential addictive behavior, yes, it is potentially addictive and all people, I'm sure, don't...can consider it entertainment and live within their income and so I think that would be a matter of the individual character. [LB985 LR296CA]

SENATOR COOK: Okay. I guess when I read the word "addictive," I'm... [LB985 LR296CA]

JOHN NEUBERGER: It has... [LB985 LR296CA]

SENATOR COOK: ...I thought that you meant that every single person who ever... [LB985 LR296CA]

JOHN NEUBERGER: No, I don't believe that. [LB985 LR296CA]

SENATOR COOK: ...did that. Okay. Thank you. [LB985 LR296CA]

JOHN NEUBERGER: I'm not opposed to the gambling that's now legal and I know... [LB985 LR296CA]

SENATOR COOK: Thank you. Well, then that clarifies it. [LB985 LR296CA]

JOHN NEUBERGER: ...we have a lot of people that look at it as entertainment and can afford it. [LB985 LR296CA]

SENATOR COOK: Out of their discretionary income. [LB985 LR296CA]

JOHN NEUBERGER: Can take it out of their discretionary income and that's... [LB985 LR296CA]

SENATOR COOK: That's right. [LB985 LR296CA]

JOHN NEUBERGER: ...fine. But I deal with many, many people that don't have any discretionary income. [LB985 LR296CA]

SENATOR COOK: Okay. Thank you for clarifying that, Mr. Neuberger. [LB985 LR296CA]

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JOHN NEUBERGER: They're in debt. Yeah, you're welcome. [LB985 LR296CA]

SENATOR DIERKS: Anybody else? I guess not, John. Thank you. [LB985 LR296CA]

MARY FORESTER: Senator Dierks and other members of the General Affairs Committee, my name is Mary Forester, F-o-r-e-s-t-e-r, and I live in Omaha at 6041 Oak Hills Drive. I'm opposed to gambling in any form because it hurts the family, the poor, and the elderly. Some of the reasons that I'm against LR296CA is...well, one thing, as Pat mentioned, Nebraska has not changed their mind, I don't believe, on expanding gambling. We had at 1996, 2004, and 2006. It was defeated by a whopping 61 percent. Nebraska voters have spoken and said loud and clear, enough is enough. What part of "no" is not being understood? This bill will not be the end of all expanded gambling requests by the gambling industry to suck more money from hardworking Nebraska families. There are four expanded gambling bills before the Legislature this year alone. If a poker palace bill passes, this will further erode revenue from all other charitable gambling which currently exist. There's no provision in the poker bill to state how this form of predatory gambling will be conducted. Will there be tournaments or palaces or neighborhood locations such as bars? Will there be drinking allowed at the venues? Will they be open 24/7? Will bettors be able to lose thousands a day? Once this provision is allowed, there will be continual changes to expand the profits and availability of play. It will never end. Do we need a constitutional amendment designed to protect and profit a predatory business, one that will hurt Nebraska families and businesses? We must not forget, as Pat mentioned, if poker venues of any sort are allowed in Nebraska, each of our four Nebraska tribes will be allowed the same privilege, and these will be virtually unregulated and untaxed. There will be no restrictions on the tribes as to how often, how much, or any other regulations you choose to impose. They are a sovereign nation and can do anything they please as long as the gambling venue is legal in a state. This includes lowering the gambling age, as they did in Iowa to 18. There is only so much discretionary money to be spent by Nebraska families. Any money lost in the poker palaces will not be money spent on necessities for the family or in local businesses. Lastly, but what does gambling provide for society as a whole? It provides addiction, bankruptcy, crime, and destruction for families. In conclusion, the responsibility of the state senators, I believe, is to protect and preserve the good life of the state of Nebraska. This bill would do neither. In fact, it would do the opposite. It may benefit a few but at the cost of hurting many. Thank you. [LB985 LR296CA]

SENATOR DIERKS: Thank you, Mary. Questions for Ms. Forester? I guess not. Thanks so much for coming. [LB985 LR296CA]

MARY FORESTER: Thank you. [LB985 LR296CA]

SENATOR DIERKS: Is there any other one in opposition? [LB985 LR296CA]

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LYLE JAPP: Senators, my name is Lyle Japp, that's L-y-l-e, last name Japp, J-a-p-p. I live at 1505 South 97th Street at Omaha, Nebraska. I first became interested in stopping expanded gambling in 1995. I have spent, this next June or this June, 60 years helping people to build estates, take care of their families, take care of their own old age, and I have seen people who have become addicted; just destroys an estate that they've spent a lifetime building in a very, very short time with just one member of a family getting involved. We've had a couple of instances in Omaha. You've all read about it. I think of the Watanabe family. Three generations built a business, it was sold, and Mr. Watanabe is reported to have lost over a million or a billion dollars, excuse me, \$100 million in Vegas and he's facing charges of further monies due. I've seen and heard of suicides because of losing all the money. There's a lawyer in Omaha who is involved in helping gambling addicts and the strange thing is people get a problem, they're real quiet about it. We tried to get some of them to come down to testify. Well, it's Gamblers Anonymous. They don't want to be known. But this attorney says he knows well over 200 people individually who were involved in going to Gamblers Anonymous meetings. In Iowa, they did a survey. In 1989, before there were casinos and expanded gambling, 1.7 percent of the people had a gambling problem of the adults. In 1995 they did another survey and they found that 5.4 percent of the adult population had a gambling problem. That was before Council Bluffs and many of the other casinos were open. I would not be surprised, if they did a study today, that they would probably find 10 percent of the adult population. And when you consider that many adults don't gamble, that's a pretty high percentage. And when they get into a gambling problem, it's virtually total destruction. Other surveys that we've found economically in Iowa, taking cities of 50,000 or more who had casinos or those who didn't, and the economic impact was very harmful to those who had casinos. Council Bluffs, in spite of bringing in casinos to solve many of their problems, have created far more, raising their taxes and so forth. Ak-Sar-Ben...and what happens is that whatever gambling starts, people graduated to something more exciting and slot machines are the crack cocaine, and that's what's happened to the horse races and so forth. And if you bring in poker, anything more, it's going to take away from keno. And it's sad to say that state governments have relied on gambling revenues to support any of the things we should be taking care of as taxpayers. I appreciate what the state has done, appreciate the opportunity to express my thoughts and I think the thoughts of many citizens. I've been a part of Gambling with the Good Life now for 15 years and it never lets up; this year, more bills than ever. But I would appreciate...the other thing that comes to mind, as an ex-farmer, I think of fences and the laws are really fences and the fences should be to protect the people. It's kind of ironic that the charitable organizations which exist to help people want to use something that's destructive to other people. It seems to me like it's an inside battle. And I would appreciate everything that you can do to help stop expanded gambling in the state of Nebraska. Thank you.
[LB985 LR296CA]

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SENATOR DIERKS: Thank you, Mr. Japp. Questions? I think not. Thanks so much for coming. Anyone else in opposition? [LB985 LR296CA]

TOM COLPITTS: Hello again. Name is Tom Colpitts, C-o-l-p-i-t-t-s. I'm here as a compulsive gambler. I am not against charities seeking help. What I am opposed to, as Mr. Japp said before me, is they are using a tool that could possibly hurt someone else. Before my gambling became a problem, I had a clean criminal record. I sit before you as a convicted felon in the state of Nebraska with five felonies caused by my addictive gambling. This can destroy families. Gambling is socially acceptable, as is drinking alcohol, but it is pushed under the table because it's something that certain people can do without having a problem. There are countless thousands of people in the state of Iowa that need help but refuse to seek it because they're ashamed. I am from the state of Iowa. I know that Nebraska is heading in the wrong direction if they continue to expand gambling any more than it already is. I put myself, in a matter of six months, in about \$150,000 in debt. Now to some people that's a drop in the bucket but to me that's a life. That was my life. I'm 41 years old. I have no home of my own. I'm just now starting to get on my feet and pay back everybody that I borrowed money from or I stole money from. Yes, there are certain individuals that can go gambling and it never affects them. I thought I was one of those people and it just kind of starts off small and you keep chasing and chasing and chasing. And I hope that the committee will take into consideration that, yes, it might be for the better good of the charity, but who are they going to hurt? And that's all I have. [LB985 LR296CA]

SENATOR DIERKS: Thank you, Tom. Questions for Tom? I guess not. Thanks so much for coming over. [LB985 LR296CA]

THOMAS COLPITTS: Thank you. [LB985 LR296CA]

SENATOR DIERKS: Anyone else in opposition? [LB985 LR296CA]

ELIZABETH COLPITTS: Good afternoon, Senators. My name is Elizabeth Colpitts, E-l-i-z-a-b-e-t-h, last name Colpitts, C-o-l-p-i-t-t-s, and I am Tom Colpitts' wife and I am just here to give you a perspective on a spouse's point of view of someone who fell into an addiction of gambling. There's so much that I'd like to say. I know there's a time limit. Gambling is a joke without the consideration of offering us a punch line. It is smoke and mirrors. It is everything you think is going to be good until the stakes are pulled up, these people who gave you the smoke and mirrors moves out, and you're left with blackness and a hole. And without going into too many abstract concepts, I'll just say that when I was in the courtroom, as my husband was being sentenced, the judge was completely confused as to why someone such as my husband could have let this happen to himself. He was an upstanding citizen. He had no criminal record. He was in the United States Marine Corps for eight years, the United States Army for five, and he was discharged honorably from both, just, you know, educated, the whole nine yards.

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And yet, here he was being sentenced. He robbed two check cashing places and he robbed a bank, and so he was charged with five felonies. And my life went from working hard just to pay bills to it didn't matter what I did because they weren't going to get paid. Family, friends, they told me, you know, no one is ever going to fault you for divorcing him so, you know, you have our support whatever you decide to do. I did actually seek a divorce attorney and he said, so this is what he did. He started listing all the things. Well, before he did rob these places, he stole money from me, he stole money from my mom, he pawned things that were his, that were mine, that were my mom's, and just that little bit added up to the robberies. And as this lawyer is going over this, I'm thinking, okay, this guy is really going to work for me, you know, he's...and then he says to me, Elizabeth, do you love him? And I...well, yeah, and he said, well, then I'm not going to do this for you. And I had to scratch my head because I'm thinking this is a lawyer, doesn't he just want my money? And he didn't. He said, I won't do it. So then, you know, I sought an attorney, a criminal, you know, lawyer for my husband and I got a recommendation of who to go see from this lawyer and so I went to see this attorney and he was in such disbelief that this could have been gambling related, he said it's probably meth. And I looked at him, I said, no, I know my husband, it's not meth. And it culminated into a point where he said to me...he got a little irate with me. He goes, you know, meth is one of those things you just don't know about. I said, yeah, but I know it wasn't meth; he has a gambling addiction. And anyway, long story short, Mr. Pick mentioned the different advantages for charities and I'd just like to say that up until my husband did what he did, there were three charities that I gave to consistently every year and now I cannot give to even one of them because I'm still trying to catch up on our bills because of his gambling addiction. Thank you. Are there any questions?
[LB985 LR296CA]

SENATOR DIERKS: Thank you, Elizabeth. Questions? I guess not. Thank you so much for coming. [LB985 LR296CA]

ELIZABETH COLPITTS: Thank you. [LB985 LR296CA]

SENATOR DIERKS: Anyone else in opposition? Anyone else in opposition? Is there someone who would like to testify in a neutral position? Neutral anybody? Well, that will end the hearing then on these bills and Senator... [LB985 LR296CA]

SENATOR KARPISEK: I'll close. [LB985 LR296CA]

SENATOR DIERKS: ...Senator Karpisek, you're going to close? [LB985 LR296CA]

SENATOR KARPISEK: I am going to close. [LB985 LR296CA]

SENATOR DIERKS: Oh, we can't end the hearing till we close, can we? [LB985 LR296CA]

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SENATOR KARPISEK: All right. Thank you. Thank you for everyone who came today. Really like to, even though the Colpittses are on the other side of this argument for me, I'd like to thank them for coming because I know that's not easy. They did a little too good of a job. (Laughter) [LB985 LR296CA]

TOM COLPITTS: Sorry. [LB985 LR296CA]

SENATOR KARPISEK: (Laughter) I told him he could have left after that last bill. I will say, though, I could get my dad here and talk about alcohol in just about the same way. Things happen. People get addicted to things, not everyone. Senator Cook, you pointed that out. But we could have people here with drug abuse problems, drugs that are illegal; alcohol problems; gambling problems. I would like to talk to Mr. Colpitts afterwards to see if this started with legal gambling or if it was illegal gambling. We'll find that out later. Senator Coash, you know, are we making everybody a poker hall? No, that's not my intention. If four times a year is too many, if two would be better, I'm open for that. That is not my intention. If there are questions on who is eligible, we can make sure. We talked about...heard about who's eligible to do this, who is not. We can make sure in the draft who is eligible, who's not. I think it points it out pretty clear. But, fine. I have had some gambling bills in my time here and if I stay another four I plan to bring some more. Otherwise, Pat won't come see me and (laughter) I like to see her. [LB985 LR296CA]

PAT LOONTJER: Well, we'll meet other places. [LB985 LR296CA]

SENATOR KARPISEK: No, really? Where? (Laughter) I better get serious. I have, you know, slots were bad, this is so bad, now it's poker is so bad. I'll bet you, I wasn't here but I'll bet you that these people were here against keno and they were here against the lottery and they were here against everything else. Now, oh, no, that's okay, we're not against that, but I'm sure they were. Pat also showed us 141 pages in the new bill. If anyone has had time to look through that new bill, maybe 40 of it is new. The rest of it is old, old language. It's just the new put in that is run the same as pickle cards. It's pretty much all the same verbiage as that. She didn't know what an event means. An event means an event. If it's a three-day event then that's an event; if it's a one-day event, that's an event. It's not every day if it's three days. Of course, I knew we'd get into the Indians. Well, I'm getting tired of that argument. I've been involved with the Whiteclay issue now for a while and I'm getting tired of hearing that, oh, my God, the Indians will have this. Number one, I would say, so what? But number two, why don't they have bingo parlors on the reservations now? They could do that. They don't. The biggest question is where would they put them? Most of the tribes here in Nebraska have land in a state that allows gaming, which would be anyone around us. They already have their casinos over there. Why would they mess around with a poker room over here? Now not to say that they wouldn't. Really, I don't see the big problem with that if they

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can have a poker room. I don't think they will anyway. To say that they don't have to abide by any of those rules then I don't think is correct. Who can say that? Lawsuits could come. I don't think it's correct to say that they don't have to go by the rules of the state. It would not turn it into automatic Class III gaming with slots and anything else, although that is where the testimony tried to go. Prizes cannot be given. In the thing that I handed out, if they have a buy-in, no prizes; prizes and money, same thing. We heard about discretionary income. I agree. And you know what, people also spend their income on liquor, cigarettes, beer, even illegal drugs. They might buy keno tickets. They might buy lottery tickets. There's no limit on any of those things. They could buy as much of that as they want. We also heard that there's no...nothing to say how this will be run. Again, someone didn't see what's going on. LB985 is the enabling legislation, so it is there. My bottom line, again, I've said it before, I'll say it again, is that this would allow it to be on the ballot. Senator Fulton just brought his LR to us in Government Committee about the people, worried about a voice of the people, and I agreed with him and I told him, however, I don't think that his words rang true because, if so, we'd let them vote. I agree with Senator Krist. I don't care how many times people have voted on anything, how many times we've heard no, we've heard the same argument every time on every gambling bill or anything that I've brought along those lines. I don't think that that rings true either. Heard a lot about casinos again today. This is not a casino bill. I know it's the same page that we take out and bring to every gambling hearing. It's not a casino. With that, Senators, I do think that the state should be able to decide and I think that we can do some good by a very limited bill here to try to help out some nonprofits. I'd take any questions. [LB985 LR296CA]

SENATOR DIERKS: Thank you, Senator Karpisek. Senator Price, please. [LB985 LR296CA]

SENATOR PRICE: Senator Dierks, thank you. Senator Karpisek, in looking at that and your mention of the 40 pages, that made a great segue to the questions I have because I did look at it and it's kind of mind crushing. But in looking at Section 23, it seems a lot of the action I have questions about are in Section 23 that begin basically on page 8, line 12, and go on through section (m). And the question I have there is how long of a look-back? When we're talking about how long someone could be eligible and not eligible, that section actually talks to the reason someone would be denied a license permit, slash permit. It doesn't really seem to say how long of a look-back. Is it forever, that any kind of conviction...I mean you don't the benefit of having it in front of you... [LB985 LR296CA]

SENATOR KARPISEK: I don't have it in front of me, Senator. [LB985 LR296CA]

SENATOR PRICE: Right. But my question is there's plenty of "was cited." There's a lot about "was cited," but it doesn't say for how long. Because when we deal with other bills, like a liquor license, they have a look-back of so many years. [LB985 LR296CA]

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SENATOR KARPISEK: Uh-huh. [LB985 LR296CA]

SENATOR PRICE: So I was just wondering, one, how long do they look back for this, and obviously you're not going to have an opportunity to answer but I would like you to be able to come back and let me know. [LB985 LR296CA]

SENATOR KARPISEK: Sure. And I think a look-back, if they were cited, does go back...they have to be a 501(c) for five years, I do know that. Any of those other, if they've been cited for anything, in my opinion, yes, goes back. [LB985 LR296CA]

SENATOR PRICE: Okay. So then you're thinking that you don't have a disconnect between it's a 501(c)(3) yet they have a conviction in something? Can those two be harmonized? [LB985 LR296CA]

SENATOR KARPISEK: No. [LB985 LR296CA]

SENATOR PRICE: Okay. So I don't know that we actually need this section. So that leads me, where did all this language come from? Is it pieced out or was it written in another state, I mean the 40 pages? [LB985 LR296CA]

SENATOR KARPISEK: Some of it was from Michigan, some of it was out of the Pickle Card Act. [LB985 LR296CA]

SENATOR PRICE: I think that might attest for maybe some disconnect I'm seeing myself. And then finally, when we talk about a event, I understand what you mean by an event by time; the question I have is, would this legislation enable an operator, a third-party operator, to establish one location and then each of the charitable organizations go out and get a permit to conduct it at this location? [LB985 LR296CA]

SENATOR KARPISEK: Yes. [LB985 LR296CA]

SENATOR PRICE: So in theory, we could have a single building where seven nights or five nights a week something was going on but under the auspices of a different permit. [LB985 LR296CA]

SENATOR KARPISEK: Yes. [LB985 LR296CA]

SENATOR PRICE: All right. Thank you very much. [LB985 LR296CA]

SENATOR KARPISEK: Sure. [LB985 LR296CA]

SENATOR DIERKS: Thanks. Anybody else have questions? Now can we close,

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Senator Karpisek? [LB985 LR296CA]

SENATOR KARPISEK: If you want to. [LB985 LR296CA]

SENATOR DIERKS: Okay. [LB985 LR296CA]

SENATOR KARPISEK: Thank you, Senator. [LB985 LR296CA]

SENATOR DIERKS: That closes the hearing on LR296CA and LB985. And, Senator Price, you're up. [LB985 LR296CA]

SENATOR KARPISEK: Senator Dierks, if you could keep chairing for a while... []

SENATOR DIERKS: Okay. Senator Price is going to open on LB1023. []

SENATOR PRICE: One of those numbers. []

SENATOR DIERKS: Yep. []

SENATOR PRICE: (Exhibits 1, 2) Thank you very much, Senator Dierks and members of the committee. Again, for the record, my name is Scott Price, spelled S-c-o-t P-r-i-c-e, and I represent the 3rd Legislative District and I'm here as a sponsor of LB1023 and possibly the last bill you'll hear this year in committee. (Laughter) As introduced, LB1023 would make two changes to the keno statutes. First, the bill would authorize the use of automated self-service terminals for the purpose of distributing tickets to players. I envision the automated terminal to be similar to an ATM machine where the player would deposit cash, select the numbers, and the terminal would print a receipt. This is not unlike the terminals currently used at horse tracks in Nebraska or the self-service pickle card machines you see in grocery stores. Second, the bill would eliminate the requirement of a paper ticket and authorize the use of an electronic ticket. Now we're going to have an amendment that's passed out to you that would actually pull that part there but I wanted to follow with what we had first in the green copy, then talk to the amendment. The intent of the provision was to bring the game into the twenty-first century and allow the game to be played by electronic medium instead of our current system with just paper. It is my understanding that bingo in Nebraska allows for an electronic ticket minder to help the players identify winning cards, and the intent of LB1023 is to allow for a similar system in keno. Again, since introducing the bill, there seems to be some confusion about what the electronic ticket would look like and how it would work. I try to describe it as being like an Etch A Sketch. I couldn't come up with a good understanding. So we have an amendment that deletes the creation of the electronic ticket and maintains the paper ticket requirement already in law. And while I understand technology has moved past the game of keno in Nebraska, I believe the electronic ticket issue should be flushed out more and in more greater detail at a later

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time and not within this bill. Finally, I would like to say a few words about video keno. I have been told this bill would allow video keno or maybe another step toward video keno. And as you may recall, there was a measure on the ballot in 2006 to authorize video keno, a measure which was defeated by the voters. After reviewing the language of Initiative 421, I don't see how one can argue LB1023 would authorize video keno. It is not my intent to authorize video keno and if this bill or an amendment would do so, I would personally work to kill that bill. And with that, I'd like to say thank you and appreciate your attention in this matter and get your support, and also have read into a record a bill...a letter of support, excuse me, a letter in support from the League of Municipalities. And with that, I'll conclude my testimony and answer any questions I can. [LB1023]

SENATOR DIERKS: Thank you, Senator Price. Questions? Later. [LB1023]

SENATOR PRICE: Pardon me? [LB1023]

SENATOR DIERKS: We'll do it later. [LB1023]

SENATOR PRICE: All right. Thank you. [LB1023]

SENATOR DIERKS: Is there anyone here in support of LB1023? [LB1023]

JOHN HASSETT: (Exhibits 3, 4) Okay. My name is John Hassett, it's H-a-s-s-e-t-t. I run keno for 11 communities, 3 of which are in Senator Price's district, and I was the one who brought this concept to him. But I would like to mention that I'm speaking for all of the keno operators today. I had worked closely with Big Red that does Omaha and Lincoln, with the people in Hastings, Papillion, North Platte, Kearney. We call and visit with a guy from Scottsbluff. We did think we'd just have one speaker. It's such a simple bill, we'd be pretty redundant if we all come up and said the same thing. But I'd just like to say I am representing more than just myself. I'm sending around a sheet. It just has some numbers about keno, things that I don't know if you're aware of. There's over 5,000 licensed keno workers across the state, about 700 locations, and it's utilized by 159 counties, cities, and villages. So it goes pretty much Omaha to Scottsbluff. Keno has raised, the last 20 years, over \$300 million that has gone directly to the cities or counties, and we feel like the impact is well beyond that number. That money has been used to start a number of successful economic development projects. I think if you did an impact study on keno, it would be significantly higher than the \$300 million. On the handouts, in my mind, is the best reason to support this bill. You see a lot of the projects listed that the communities spend the money on. We have the assisted-living veterans' home in Bellevue. They bought the land for that with keno money. You see a swimming pool in Plattsmouth, a couple million dollars that was paid for entirely with keno money; your conference center in La Vista; and then you see numerous communities are using it for police and fire equipment and projects for their police and fire departments. In fact,

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just a little side note, the drug dog in Bellevue, they call him Keno. That's his name because that's where they got the money for him. But the combination of the smoking ban and just general, you know, economic climates has left most of your keno games down about 15 to 30 percent, and our games, from our standpoint, January through May, we're up about 3 percent and then June, which was the month the smoking ban started, our game dropped 22 percent and it's pretty much stayed there. And that's sort of what's driving this bill, is a couple of the cities came to their keno providers and said, you know, what can we do to preserve this, you know, revenue stream without expanding gambling, and we think we accomplish that in this bill. What this bill does, as amended, it does one thing. It allows a keno player to write their own ticket. And Senator Price mentioned the ATM, I think that's our best example, if everybody can visualize that. You also see them at the airlines anymore where you go in and you use the...it's automated there. I went to the movie theaters the other day and there was a long line. They had an automated screen and I just bought my movie tickets that way. Now this will help the keno games because you can ensure that people will be able to get their ticket in. One of our challenges is that at our busier locations most of the writing is done by people who multitask. It's bartenders or waitresses, and when it gets busy, like at lunch time, you get most of your...most of the people in there. We have some locations that stop writing keno because that's not their...it's just not their priority. It's not good customer service either for their customers. And we understand that and we're hoping to be able to utilize a self-service machine to help alleviate that issue. We also think it would help with some of our service clubs. They have volunteer help. Some of them are reluctant to learn the intricacies of the keno. They don't mind volunteering their time but, you know, you can only ask so much of guys that come in and volunteer. I think it would be helpful there. I think it would add a couple of locations, people that are reluctant to mess with the keno as far as learning to write the tickets. I think it would make it easier for them to put the self-service machine in and then just pay...just have to pay the pay slips. It may even...I could see some of the...in some of the rural areas, I think this would even add an option to have keno, so I think it might add a couple locations and possibly open it up for a county or a city that right now doesn't have any options for their keno. But that's all that LB1023 changes. The start of the game is still controlled by the keno personnel. You know, these aren't instant keno machines. They're certainly not slot machines. There's no change to activation, no change to the current rules of the five minutes between games. We still require a paper ticket. I know initially the bill addressed that area and then we took that out. I would like to mention the fiscal note. I understand it came from the department. Minimal costs to implement and they didn't think it would have much impact on revenue. The reason there's minimal costs for them to implement, any new piece of equipment has to be paid for by the...any testing has to be paid for by the keno manufacturer, so there wouldn't be...if there is testing costs, those aren't borne by the state or borne from the tax money. A couple of questions we received as we made the rounds visiting with the different senators, jobs came up. Now of our 700 locations, fewer than 20 have more than 1 writer. Keno is more of a satellite type of game, and you would still need a cashier to cash your ticket.

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We don't really see this as having any effect on jobs. I guess we say job neutral. I do think that any industry that's down 20 percent is looking hard at jobs and if we can stabilize the revenues, we see that as a plus. Age control came up as a question from a couple of the senators and the responsibility will still be on the bartender, keno writer, you know, same as it is now. Your opportunity to ID the customer is going to be when they cash their ticket. And, you know, we've had self-service terminals in the horse racing and in pickles for a little over ten years and that's how they do the age control, is when they come up to cash the winning ticket. I see my yellow light is on so I'll talk quicker, but I did want to say that I thought it was appropriate that Senator Price introduced this because we got the history of keno from the department and Bellevue was actually the first city to go into the keno, and I would like to point out the law really hasn't been favorably amended since 1986, which is a long time. This, what we're changing, is access that was initially put in as part of a package to stop instant keno. And by taking this out but leaving your five-minute rule in and the activation in, you're not allowing instant keno. This is just another means to...people to write, you know, their own tickets, for us to be able to get the tickets out a little quicker. But I thought since Bellevue had the first keno game, maybe we can have the first successful keno amendment. That's what we're hoping for. So with that, if you have any questions, I'd be happy to answer them. [LB1023]

SENATOR DIERKS: Okay. Senator Krist has a question. [LB1023]

SENATOR KRIST: Thank you, Senator Dierks. Just clarify for me, I know you're not...well, maybe you can. Can you define a slot machine for me? [LB1023]

JOHN HASSETT: (Laugh) Yeah, everybody's definition is very different but I can define some things that I think would be in a slot machine. I mean the player activation is typically what you see in...I always associate that with a slot machine, and that's one thing I think what I see every slot machine has. As far as...it's generally a freestanding game. In other words, it can determine winners and calculate winners and operate the game basically by itself. Now, you know, and another distinction of the machines we're talking about today, the winners will still be calculated but at the central master computer, just like they would be if there was a keno writer. I mean the... [LB1023]

SENATOR KRIST: So to be clear, this is not a self-contained gaming device; it is an instrument to participate in that big board that we all walk in and look at which is centrally controlled. [LB1023]

JOHN HASSETT: Yes, sir. [LB1023]

SENATOR KRIST: So it's, in your mind and in mine at this point, I don't see that as an expansion of gambling because they're at the same facilities that we have right now. What it is, is a self-service machine where your employees are not adding up my ticket,

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which sometimes they do improperly, I might add. [LB1023]

JOHN HASSETT: (Laugh) [LB1023]

SENATOR KRIST: But the few times that I play it, the thing would be I could walk in, I'd have to understand the game, which, by the way, might reduce the number of people that are talked into some of those keno deals. I have to understand the game. I have to put the money in myself. I have to basically load what I have, and then I take my chances on that game that's already going on. [LB1023]

JOHN HASSETT: Yes, sir. [LB1023]

SENATOR KRIST: Okay. [LB1023]

JOHN HASSETT: And, yeah, I think it's important, too, I mentioned a couple of the cities that came to us, that was one of the parameters that they asked for. They said, is there anything we can do that you don't think is an expansion of gambling? And this was one of the things I came up with. I had two or three things for them to pick from. I really don't see this as an expansion. I mean it's going to be the same keno game. It's...if I got a ticket from a keno writer or I get a ticket off of the self-service machine, then you'll watch the same game. I mean I don't view this as an expansion. [LB1023]

SENATOR KRIST: Thank you for your answer. [LB1023]

JOHN HASSETT: Sure. Anyone else? [LB1023]

SENATOR DIERKS: Other questions? I guess not. Thanks for coming, John. [LB1023]

JOHN HASSETT: Well, thanks for hearing us, really I appreciate it. [LB1023]

SENATOR DIERKS: You bet. [LB1023]

JOHN HASSETT: I know this is the last one on the last day so... [LB1023]

SENATOR DIERKS: Other proponents? Anyone else in favor of LB1023? Are there opponents to LB1023? [LB1023]

PAT LOONTJER: Senators, I won't take up very much of your time because I've already told you how I feel about this. Our concern with this bill is the word "electronics" and... [LB1023]

SENATOR DIERKS: Pat, tell us your name and spell it. [LB1023]

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PAT LOONTJER: I'm sorry. I'm Pat Loontjer, L-o-o-n-t-j-e-r, Omaha, 2221 South 141 Court, Omaha. Our concern, Gambling with the Good Life, with this bill is especially the word "electronic." How can that be interpreted in the future as far as, you know, whether it's just dispensing a ticket or is it the keno machine? So that was our concern, was that it wasn't clarified enough that we were comfortable with not opposing it. Twice within the bill it's referred to as a gambling scheme. I think a lot of the things are. Russ mentioned that he thought we probably were down here opposing the lottery and keno and pickles, and that's not true, Russ, because they all started before we were formed (laugh) and so I haven't been down there. But I would love to stop coming down here (laugh) if the bills would stop popping up. And, Russ, we could arrange that we could have lunch together and I could bring my 13 grandchildren who I would rather be spending time with (laugh) than down here on these particular bills. But I do appreciate your patience today and for hearing us out and our concerns. We are just ordinary citizens. We just care about our families. I have 5 children, 13 grandchildren. They all live in the state of Nebraska and we just care about the quality of life that we have and we would like to see it not imposed upon by any form of expanded gambling. [LB1023]

SENATOR DIERKS: Okay. Thanks, Pat. Questions? Senator Karpisek. [LB1023]

SENATOR KARPISEK: Thank you, Senator Dierks. Pat, if we just took the "electronic," I mean I don't know that you could in this, but that is just your main concern? [LB1023]

PAT LOONTJER: Uh-huh. That was the, you know, that was the red flag, that when we handed it to our attorneys and they said, wow, that's pretty vague; you know, we don't know where that could go in the future. [LB1023]

SENATOR KARPISEK: I would say if any of those things come up now you would be here opposing them, wouldn't you? (Laugh) [LB1023]

PAT LOONTJER: Oh, Russ. (Laughter) [LB1023]

SENATOR KARPISEK: (Laugh) Sure. Thank you, Senator Dierks. [LB1023]

SENATOR DIERKS: Any other questions? Thanks, Pat. [LB1023]

PAT LOONTJER: Thank you. [LB1023]

SENATOR DIERKS: Oh...yeah, thanks. I thought Senator Cook was getting ready to raise her hand over there. [LB1023]

SENATOR COOK: Not this time. [LB1023]

SENATOR DIERKS: Anyone else in opposition? [LB1023]

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LYLE JAPP: Senators, my name is Lyle Japp, L-y-l-e, Japp, J-a-p-p. I live at 1505 South 97th Street, Omaha, Nebraska. I'm here in opposition in that the reason for most bills that come up is to get more money, to get people to lose more money. And I haven't investigated but they were saying that they had given out \$300 million to communities and I just wonder how much money was lost to have \$300 million left and what these same people could have done with that money. I usually...and this doesn't pertain necessarily to this bill, but we were talking about Indians, expansion, and what usually happens, somebody from Las Vegas or somebody comes along and has those big ideas and because they have the right to do it, they'll build any kind of a palace in order to get money and give a part of it. I get all kinds of calls and I usually ask the question, it may be for firefighters, it may be for different things, I usually ask the question, are you a fireman or are you a policeman? No. They're someone who's calling, hired callers. And what's happened is who is ever behind that has come along and said to the firemen or whatever organization they're representing, if we can use your name we'll give you a piece of the action. And so this...schemes out there are numerous and I think it's sad that so much of the state already has become addicted to gambling revenues. And so I see anything that comes up as wanting to get more money from people who can ill-afford it. Thank you. [LB1023]

SENATOR DIERKS: Thank you, Mr. Japp. Questions? No questions. Thanks for coming. Other opponents, please? [LB1023]

MARY FORESTER: Senator Dierks and members of the General Affairs Committee, my name is Mary Forester, F-o-r-e-s-t-e-r, and I live in Omaha. I am opposed to LB1023 because of the word "electronics." I'm just concerned because, from what I've read, I'm assuming that electronics and video gambling are one in the same or similar and they're very much more addictive than regular gambling. Dr. Schull, the MIT professor who's nationally recognized for her research on electronic gambling machines: The goal of the technology is to get users to play to extension, which means until their money is gone. She wrote that an electronic gambling machine is designed to be so effective at extracting money from people that it is a product that, for all intents and purposes, approaches every player as a potential addict--someone who won't stop playing until their means are depleted. And, Senator Karpisek, I would like to, out of respect, take issue with what you said about there are few people who become addicted to gambling. I am not a child of a gambler but I am a child of an alcoholic. And from what I've read, most addictions in families have similar outcomes. And if we can save one child from going through what I went through as a child, I would think it would be better to oppose this. Thank you. [LB1023]

SENATOR DIERKS: Thank you, Mary. Questions? No. Thanks for coming, Mary. Anyone else in opposition? Anyone else in opposition. Anyone neutral? Neutral, anybody? Time to close, Scott. [LB1023]

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SENATOR PRICE: A rather dubious distinction, to be sure. Thank you, members of the committee, Senator Dierks, Senator Karpisek, et al. In listening to the people who came behind to testify, first and foremost I'd like to express my appreciation for them to take time out of their days to come down and defend their positions, and I want them to know that I appreciate their positions. And I'd like to take them up one at a time just to work on that a little bit so I can give you what I believe and why I carried the bill. In response to Ms. Loontjer's concern and others' about electronics, the amendment removes Section 4, the only place that I could see that has the word "electronics," so we did that in one fell swoop. We did it the old-fashioned way--we cut it out. The next thing to talk about is the word "gambling scheme," and we've heard that a few times today. We hear...I'm unable to answer why "scheme" was used in crafting language but we do see the word "scheme" used or "schema" used in other places. That is a positive thing, a scheme, with a definition of how you're going about something. You could well say you have a scheme for dealing with Oklahoma if you're playing football, okay? So there's a scheme. So a scheme does not always have a negative connotation. Now I would ask you to think about that. Now if we were to talk about gambling and a definition of gambling, and we were to talk about discretionary funds, and Mr. Japp brought a great illustration of that and brought it to the forefront, I would say another use for your discretionary funds is in an investment and that those who risk their dollars in an investment, in the stock market, in a 401(k) which is now a 101(k), all right, (laughter) and could have filed for bankruptcy. Now I don't say that to make light of it. I just say that, that we have to keep things in perspective here about this. And what this bill and the amendment has done is to put a piece of equipment that we use in other areas of our lives, that we use in other areas such as pickle tickets, a vending machine. And what we've done, we have allowed it to supplant and support a current, existing, legal activity, not to expand it, and that by taking out "electronics," we've taken out that opportunity for that. A person would go up to the dispensing machine, put it in, get it, and they still have to go back up to a person and grab the money, and that the activation, as Senator Krist brought up, the player does not create the activation. They've just got a ticket. And that this is not an expansion. This is moving up in the twenty-first century. You know, I've said it before, I'll say it again, there was a time when we used phones that were actually attached to a wall instead of having one on our hip. We actually had to go to a banker to get our money. So I would urge the committee to consider those thoughts and concepts and the amendment as we consider and you consider this bill. And I appreciate your time, would entertain questions. [LB1023]

SENATOR DIERKS: Questions for Scott? I think you've done well, Scott. We're through. Thank you. [LB1023]

SENATOR PRICE: Amen. [LB1023]

SENATOR DIERKS: That closes the hearing on LB1023 and the hearings for the day.

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Thank you for your attention. [LB1023]