

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 1, 2021

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our COVID-19 response protocol

BRIESE: Welcome to the General Affairs Committee. My name is Tom Briese, I'm the senator for District 41. I'm the Chairman of this committee and will be conducting today's hearings. We're here today for the purpose of conducting four bill hearings this morning. For the safety of our committee members, staff, pages and the public, we ask that those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance and exit doors to the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by a Sergeant at Arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter a hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the ability of an overflow hearing room for hearings which attract several testifiers and observers. For hearings with large attendance, we request only that testifiers enter the hearing room. We ask that you please limit or eliminate handouts. If you wish to testify in person on any of the matters before us, we ask that you fill out one of the green sheets of paper. The green sheets are located by the entrance. If you do testify, we ask you to begin your testimony by stating and spelling your name for the record, which is very important for our transcribers office. The order of proceedings is that the introducers will be given an opportunity to open on their bills. Then we will hear the proponents, opponents and neutral testimony. Following the testimonies, the introducer will be given an opportunity to close. We ask that you listen very carefully and try not to be repetitive. We do use the light system in the General Affairs Committee. Each testifier is going to be afforded five minutes to testify. When the yellow light

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comes on, you have one minute remaining and we ask that you begin concluding your remarks. When the red light comes on, your time is expired and we will open up to the committee for any questions they may have of you. At this time, I'd like to encourage everyone to turn off or silence any cell phones or electronic devices, anything that makes noise. The General Affairs Committee is a committee that is equipped for electronics, so you may see members referencing their iPads, iPhones or other electronic devices. I can assure you they're just researching the matters before us. Is everyone here today going to testify on the first bill? Show of hands, please, if you would. OK. We're going to go three minutes today instead of five. At this time, I'd like to introduce our pages, Evan Tillman and Jonathan Laska. Would you guys stand for us, please? Thank you. I'd like to introduce committee clerk Alex DeGarmo on the end, committee legal counsel Laurie Holman on my right. I'd now like to have the committee members introduce themselves, starting on the right end.

J. CAVANAUGH: John Cavanaugh, District 9 in midtown Omaha.

GROENE: Mike Groene, Lincoln County.

LOWE: John Lowe, District 37.

WAYNE: Justin Wayne, District 13.

BREWER: Tom Brewer, District 43: 13 counties of western Nebraska.

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

BRIESE: OK, thank you. We will begin the hearing today on LB73, Senator Geist. Good morning and welcome, Senator Geist.

GEIST: Good morning, thank you for allowing me to be here this morning. I appreciate the opportunity to present LB73. For the record, my name is Suzanne Geist, S-u-z-a-n-n-e G-e-i-s-t, and I represent the 25th District here in Lincoln, which is the east side of Lincoln and Lancaster County. I'm bringing this morning LB73 to direct 10 percent of the tax revenue collected under the Nebraska Gaming Act from Initiative law 2020 number 431 to the County Agricultural Society in the county where a racetrack is located. I want to pause a moment and clarify that the 10 percent that I'm asking is from the 25 percent that is directed to the cities and counties. It's-- I'm not asking 10

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percent of the 100 percent. It's 10 percent of the 25 percent that is directed to cities and counties. I brought this bill because the Lancaster County Event Center and Lancaster County Ag Society are my constituents, and I'll get into some additional reasons as I read through my testimony. We can all agree that ag societies are responsible for many important events in Nebraska. Not only are they responsible for hosting the county fair, but they also teach ag education to community members of all ages. The Lancaster County Event Center holds the super fair for ten days every year. This is just one of the 300-- 320 events that they hold annually. Currently, the event center does not have any fixed source of funding to help with maintenance on the buildings and grounds. The past year has shown that the event center needs to have a fixed source of funding. During the pandemic, the event center has hosted food dist-- food distribution and blood banks. They are not only the fairgrounds-- they are not the only fairgrounds to hold blood banks during the pandemic. In 2017, the economic impact of the Lancaster County Event Center was \$39.54 million to the city and county, city of Lincoln, county of Lancaster. I'm including this so you understand the value not only to the counties, but to the cities as well. I've chosen to have 10 percent of the funds directed to the ag societies because the state fair receives 10 percent of lottery funding. So we looked at how the lottery funding is distributed and mirrored that with the gambling funding. So that's where we got the idea of using 10 percent. Now, I'll clarify again, the lottery funding is 10 percent of the whole that goes to the state fair. The funding we're asking for is 10 percent of the 25 percent. So we're not touching property tax funds at all, we're just touching those cities and county funding. Ag societies are able to have a small property tax levy, but that's not enough to help sustain the Lancaster County Event Center. We are all in agreement that the best budgeting decisions are set by the local authorities. I actually very much agree with that, and I'd like you to know that I did approach the county board and the cities to see if there was a way to provide the event center with lasting funding. I would not have introduced this bill had that been successful. But since it wasn't, I'm bringing forward this bill to allow funding for all ag societies, which would also include Lancaster County. So thank you for your time and attention. I'd be happy to take any questions.

BRIESE: Thank you. Thank you for your opening.

GEIST: Um-hum.

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BRIESE: Any questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Briese. And thank you, Senator Geist for being here. So just to clarify, you said it a couple of ways, but it would really be 2.5 percent of the--

GEIST: Exactly.

J. CAVANAUGH: OK.

GEIST: Because we're not talking about the whole, we're talking about 10 percent of 25 percent. Is that--

J. CAVANAUGH: Much easier for me to understand.

GEIST: OK.

J. CAVANAUGH: Do we have any idea how much money we're talking about?

GEIST: You know, there have been some projections. And the reality is, no, we don't. We don't know how much we're talking. I'll tell you the thinking in bringing this forward now, and I know it's early. And since we don't have any idea what the funding will be, it's so much easier to ask for funding for undesignated dollars. Once funding starts coming in and that, it ends up being part of a general fund either for the city or the county or both, then it's very difficult to designate those dollars. But we're asking before any dollars are designated, and simply because it's easier-- it doesn't hurt the cities and counties to have money designated that they have never had before. So that's why we're bringing it this early.

J. CAVANAUGH: Can I ask a follow-up? OK, so you have a specific problem you're trying to address, which is this necessity. So you don't know that this is actually going to solve that problem?

GEIST: What it will do is give a stream of funding that at least they can-- that's not there. We don't know that it will all concur, we don't know that it will satisfy the maintenance need. But currently there is none there unless they move funds around to free up some funds for that. And some of their funds are pigeonholed so they cannot be used for maintenance. And so something that they can do on an ongoing basis is better than nothing. So even though we don't know that it will totally provide, it is a stream of funding that would be

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designated specifically for maintenance and, and we know that that's better than what they're getting now.

J. CAVANAUGH: Got one more follow, please. Forgive me if I maybe missed it in the bill, so this would not apply just to Lancaster County.

GEIST: Correct. I'm addressing it as Lancaster because I know that need. But it would be for every city and county that has a racetrack currently.

J. CAVANAUGH: And an ag society.

GEIST: And an ag society. Correct.

J. CAVANAUGH: So but the bill doesn't specifically require that the 10-- the 2.5 percent would go towards building maintenance.

GEIST: Correct.

J. CAVANAUGH: So--

GEIST: It will go to the ag society. I just know in Lancaster County, that's what it would be used for.

J. CAVANAUGH: Thank you.

BRIESE: Thank you, Senator Cavanaugh. Senator Groene.

GROENE: Thank you, Chairman. You keep mentioning city, but I don't see the word city in this thing. It's the county under the county agriculture society. [INAUDIBLE] the remaining 25 percent of the tax shall be remitted to the county treasurer of the county in which the license racetrack. So you're taking 10 percent of what the county.

GEIST: The ballot language determines the 25 percent to go to cities and counties. And then our language says it will go to the ag society. But if, if the racetrack is in the city, it would, part-- half of the funding would come from the city, half would come from the county. If it's in the outside the city limits of the city, it would only come from the county.

GROENE: I see.

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GEIST: OK.

GROENE: So but yours is outside.

GEIST: Ours is actually inside the city limits.

GROENE: All right. Thank you.

BRIESE: Thank you, Senator Groene. Anyone else? Senator Brewer.

BREWER: So that we, we kind of understand what would probably help generate some of this is with COVID, there was probably very few events there.

GEIST: Um-hum.

BREWER: I mean, I was there at what little there was of the fair, the traditional things that we have, the sport and boat show, the gun shows, all those kind of things weren't happening this year.

GEIST: Correct.

BREWER: So basically their income would have been those events. And without those, they're in a position where they're in a bind.

GEIST: Exactly.

BREWER: I mean, financially. And this gives them a flow of resources to keep the facilities open and--

GEIST: Correct.

BREWER: OK, thank you.

GEIST: Actually, if I can add to that the fair here in Lincoln had a two-year contract with the junior rodeo, the national rodeo, and lost one of those years. We're hoping to have the second year, but that was a significant loss. And then several-- they were closed for five months of the year, which I know many other event centers were closed, fairgrounds were closed, so I know that there is a need across the state. And this for every ag society would give a continuous stream of funding, even if the, Lord help us, that we would have another pandemic or another state of emergency or things would be closed,

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there would still be another stream of funding given that gambling
would be open so.

BREWER: All right. Thank you.

BRIESE: Thank you, Senator Brewer. Anyone else? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. You said that this is kind of to
mirror the lottery funds.

GEIST: Um-hum.

J. CAVANAUGH: And my understanding of the lottery funds is we passed a
state initiative just like we do with gambling. And I guess it maybe
was a little before my time. But wasn't the allocation of the funds in
that in the state the ballot initiative, or do you know that answer to
that?

GEIST: I don't know that for sure.

J. CAVANAUGH: I'm just-- that came to me while you were saying it.

GEIST: That's a good question, but I don't know for sure if that was
passed by ballot. I'm sure that if it was passed by ballot initiative,
I won't guess. I don't know.

J. CAVANAUGH: Well, I guess my question is, if we're going to-- we
passed this ballot initiative and I know some people voted for it
based off of the allocation of funds. What's to stop somebody else
coming along and saying we have this other extremely meritorious
reason to use this money and chop up the funds further?

GEIST: That is why I'm coming to you first. There's nothing to keep
people from doing that, although the threshold on the floor for votes
is much, is higher than 25. And, and that's also why you're on this
committee, you're the experts in the room. So, so that's why I'm
bringing it to you, A, early; and two, understanding that it's serious
and I'm not taking it lightly. And that's why we're asking for the
percentage that we are.

J. CAVANAUGH: Thank you.

GEIST: Um-hum.

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BRIESE: Thank you. Senator Cavanaugh. Anyone else? Seeing no other questions, thank you for your opening.

GEIST: Thank you.

BRIESE: You'll remain for closing?

GEIST: Sure.

BRIESE: Thank you. Next up, first proponent testifier. Good morning and welcome.

STEVEN KRUGER: Morning. Good morning, Chairman Senator Briese and members of the General Affairs. My name is Steven Krueger, S-t-e-v-e-n K-r-u-g-e-r. I apologize that I didn't make enough copies. I am the executive director of the Nebraska Association of Fair Managers. I'm here to share some insights on the role and health of the county fairgrounds across the state of Nebraska, as you consider LB73. Nebraska Association of Fair Managers, or the NAFM, includes 78 county ag societies, 2 fair boards and the Nebraska State Fair. During the NAFM annual convention ten days ago, the membership unanimously passed a resolution in strong support of LB73, which has been delivered to Senator Geist in an exhibit for this committee in its consideration of LB73. The occupation of running fairgrounds is a specialized one and NAFM members know they share the unique challenges to keep agriculture fairs alive in Nebraska for the second 150 years of our history. For this reason, the membership passed this resolution as fair grounds here to support each other, even if LB73 doesn't initially benefit every fairground due to where racetracks are located, just as they would be there for each other if a natural disaster hit, such as floods in 2019. County fairs share-- county fairs share a compassion to keep Nebraska agriculture fairs and fairgrounds thriving for generations to continue the message of agriculture's long history, importance to Nebraska's economy and cultural life, with a special focus on youth. This is more important than any time in the history of the state of Nebraska. Fewer people are personally involved in production of our farms, though agriculture drives 25 percent of our jobs in Nebraska. With the challenges of how to keep our Nebraska economy thriving, property taxes low, keep our youth engaged so they choose to stay in Nebraska, ag societies are working to bring in life and engaging ways to modern agricultural methods, which might lead our youth into advanced technology, bioengineering science and educational

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careers. Ag education, ag business and ag tourism is what comes to life at our fairgrounds on each fairground, not just at the annual county and State Fair, but in most cases with year round use of the fairgrounds for these ag pursuits. Annual ag awareness days for local elementary students and outreach into the communities introducing ag in the classroom are very common programs in local county fairs. Ag societies were established by the Agricultural Society Act, originally enacted in the first years of Nebraska with a few today, a few ag societies celebrating 150 years. It was revived with the County Agriculture Society Act of January 1, 1998, establishing the main governing body for most Nebraska county fairs as a county-wide agricultural society with directors elected by the public. County ag societies in compliance with this act require all county agricultural societies existing, organized or reinstated on or after January 1, 1998, shall comply with the County Agricultural Society Act and shall annually offer an award premiums and perform such other acts, which such society deems will be important for improvement of agricultural industry, homes and communities of the state.

BRIESE: Sir, I'm going to have to shut you off there. But do you have some additional brief comments you'd like to share?

STEVEN KRUGER: I'm already at my three minutes?

BRIESE: Yeah.

STEVEN KRUGER: Yeah. Well, I guess my only comment is that LB73, while it doesn't benefit all the counties, it would benefit the few counties that do, and we all support that. So if anybody has any questions, I would be happy to have that.

BRIESE: Very, very good, thank you. Any, any questions? Senator Groene.

GROENE: Anyway, thank you. Lancaster County, that Lincoln County-- that Lancaster County Event Center was a JPA, wasn't it?

STEVEN KRUGER: Pardon me?

GROENE: It was JPA. It was a joint venture between the city and the county.

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STEVEN KRUGER: I'm not-- I don't have an answer to the question. I
can't answer that question, sir. I'm sorry.

GROENE: That's not really a county fair facility.

STEVEN KRUGER: The Lancaster Event Center?

GROENE: That's more of a city area event center. I have one in North
Platte and it's privately owned. You go to the next town, it's owned
by the city. So why would we help Lancaster County and--

STEVEN KRUGER: Well, it's the Lancaster Ag Society manages the
Lancaster Event Center.

GROENE: Yeah, but it's, it's used more for special events than it is
anything to do with cows and pigs.

STEVEN KRUGER: No, they have an annual fair out there.

GROENE: Oh. Well, thank you.

STEVEN KRUGER: For youth and--

BRIESE: Thank you, Senator Groene. Senator Cavanaugh.

J. CAVANAUGH: I just have a general ag society question. Is there one
in Douglas County?

STEVEN KRUGER: Douglas County right now does not have an ag society.
No, they do not.

J. CAVANAUGH: Did we have one recently?

STEVEN KRUGER: They used to have one years ago and it, the county
board didn't-- they just dissolved it. So right now they can go into a
county-- in Douglas County could provide a fair board in that county,
which would allow them to get dollars if you would put fair boards in
the writing. And there is, there is a statute for fair boards in our
state statutes.

J. CAVANAUGH: So that was going to be my follow-up question. So for
us-- so I'm from Douglas County.

STEVEN KRUGER: Yep.

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J. CAVANAUGH: For us to have an ag society in Douglas County, for this to affect us, the county board would be the one who would decide whether or not we form an ag society?

STEVEN KRUGER: A county board, that-- county ag society needs to be formed by petitions of the people. So according to the county, the agriculture act, the county fair board-- the county fair, county board could decide that they're going to have a county fair board.

J. CAVANAUGH: OK. So and the petitions of people, do you have any idea how many petitions that would require?

STEVEN KRUGER: I'm not aware of that number, sir.

J. CAVANAUGH: I'm just trying to figure out if this were to go into effect what-- who would have the control over whether it actually affects Douglas County.

STEVEN KRUGER: County fair board-- or the county board.

J. CAVANAUGH: The county board. Thank you.

BRIESE: Thank you, Senator Cavanaugh. Anyone else? Senator Brewer.

BREWER: Thank you, Mr. Chairman. All right, I guess the first question would be is, how familiar are you with how it's funded? So that we get a better understanding of, of, you know, the sources or streams of funding that can be used, whether it be for maintenance or just for general operations.

STEVEN KRUGER: I-- that would be-- I didn't see in the bill whether it was actually designated to certain funding of the ag society, it was just dollars would be appropriate to the ag society from this.

BREWER: OK, if we were to take a snapshot right now, though, are you familiar with how it's funded?

STEVEN KRUGER: The county ag society?

BREWER: Ag society. Right.

STEVEN KRUGER: Currently, the county ag societies are allowed to levy up to 3 percent of the county's valuation. There's hardly any county

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in the state that values that, that, that uses that 3 percent. Most of
them are way under that. And that valuation is included in the 15
cents above the county board, 40 cents. So that gets included in that
15 cents along with the fire districts--

BREWER: And--

STEVEN KRUGER: -- historical societies. Then if they want to do a
sinking fund on top of that, they can vote for a sinking fund which
would not be included in the county's budget, [INAUDIBLE] levy.

BREWER: So if we take a look at events that are held there, whoever
wants to hold the event has got to pay a certain fee for whichever
portion of the facility that they're going to utilize for whatever
event. That goes to the ag society--

STEVEN KRUGER: To maintain and--

BREWER: -- because they manage it.

STEVEN KRUGER: To maintain and manage the funds.

BREWER: And likewise, at the fair, if you're a 4-H or FFA kid and
you're bringing animals in there, the fees to be able to do that, that
all goes to the ag society?

STEVEN KRUGER: Correct.

BREWER: They manage that coming and going as needed, and that is their
primary stream of revenue.

STEVEN KRUGER: Primary stream, plus their levy.

BREWER: OK.

STEVEN KRUGER: And the levies, like I said, most of them aren't-- most
of the county ag society boards are very conservative, so they have
not appropriated their full dollar amount. For instance, in Washington
County, there's a \$3 billion valuation there. They could levy up to
\$90,000. They're not even at \$100,000.

BREWER: All right, thank you.

BRIESE: Thank you, Senator. Anyone else? Senator Groene.

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GROENE: Hall county has a-- thank you, Chairman. Hall County at the racetrack, right?

STEVEN KRUGER: Hall County has a-- yes.

GROENE: And it's kind of a-- and the state fairgrounds and the Hall County ag society is basically one facility, they're all tied together there, right?

STEVEN KRUGER: Right. There's a mutual agreement with-- that was stipulated in the law how that was to be done. The State Fair only gets the ground, I think it's just for 60 or 90 days, I believe. And then back then it goes to the Fonner Park to manage. And Hall County, then it goes to Fonner Park that gets, uses the fairgrounds because of them. They allow them to use the fairgrounds.

GROENE: So originally Hall Park-- the Fonner Park was part of county fairgrounds?

STEVEN KRUGER: Yes.

GROENE: So now Grand-- Hall County gets 10 percent of the lottery funds and now they're going to get 10 percent of this for the same facility and Lincoln County doesn't get anything? Platte County.

STEVEN KRUGER: The State Fair is the only one receiving the 10 percent/

GROENE: But it's all one united facility. It's just like Lancaster County, where it's the city facility and a county facility.

STEVEN KRUGER: The three entities share that with the mutual agreement. So the mutual agreement is that the State Fair gets the lottery dollars and they've managed and take care of the, the facility. They manage the facility during the state fairgrounds. After that, the State Fair has-- it goes back to Fonner Park to manage, I believe. I'm not-- I'm pretty-- there's, and then there's a guy that does the livestock organization that also manages the event center for renting out. The State Fair doesn't rent out the fairgrounds other than using it for the State Fair.

GROENE: Thank you.

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BRIESE: Thank you, Senator Groene. Anyone else? Is it fair to conclude that funding shortfalls of any county ag society, of our typical county ag society are made up by the property taxpayers?

STEVEN KRUGER: I would say yes.

BRIESE: OK.

STEVEN KRUGER: There are, there have been instances where two counties, the county board decided that they had because of-- and it's the two counties were Kimball County and Knox County, because of the recent flooding and roads. And their budgets couldn't-- they had to have all the dollars to fix the roads, so they didn't allow the county to levy the funds out of their fund, they had to go out and get it on their own. And Knox County and Kimball County were both successful in having the population vote on that and get the funding for them.

BRIESE: Through property taxes?

STEVEN KRUGER: That [INAUDIBLE]. They had to levy their own levy, and it's only allowed for three years then.

BRIESE: Very good, thank you.

STEVEN KRUGER: Thank you.

BRIESE: Thank you for your testimony. Next proponent testifier. Good morning and welcome.

RICK VEST: Good morning. If you'll allow me to put my glasses on here, this will make more sense. Good morning, Senator Briese and members of the General Affairs Committee. My name is Rick Vest, spelled R-i-c-k V-e-s-t. I'm appearing before the committee in my capacity as the chair of the Lancaster County Board of Commissioners to testify on behalf of the Lancaster County Board in support of LB73. The Lancaster County Agricultural Society and the Lancaster Event Center fairgrounds are critical institutions in Lancaster County. The agricultural society annually conducts the Lancaster County Super Fair, which is a community celebration for families that is one of the largest 4-H and FFA county fairs in the nation. The fair serves as a key bridge between our urban and rural residents during a time of widening gulf between these groups. In addition, the Lancaster Event Center fairgrounds functions as a convention and entertainment venue that

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attracts regional and national events and supports many local businesses. The LAC fairgrounds has functioned as a critical community partner during recent emergencies like the flooding of 2019 and the current pandemic. During this public health emergency, the fairgrounds was utilized at low or no cost for weekly food distributions by the Food Bank of Lincoln, thousands of TestNebraska COVID tests and monthly Red Cross blood drives. The Lancaster County Board has been a long-time supporter of the ag society and the fairgrounds. In 2000, the county board was integral in moving the Lancaster County Fair to its current location and developing it into a year round venue. Most recently, the ag society was encouraged to bid for the National High School Rodeo, a nationwide event. To host and attract events of this magni-- magnitude, they have built facilities to meet their needs. The Lancaster County Board supported the building of these facilities. I share the view of the majority of our commissioners that LB73 is critical to maintaining this important institution. Despite the considerable growth of the fairgrounds' facilities and its increased economic impact on our community, the challenge of maintaining and improving these existing facilities overwhelms its current funding. LB73 is the right tool, and now is the right time to enact. The Lancaster County Board urges the adoption of LB73. Please join us to ensure that this important community asset can be enjoyed by future generations of Lancaster County and Nebraska. Thank you for the opportunity to testify. I would be happy to answer any questions.

BRIESE: Thank you, Mr. Vest. Any questions? Senator Groene.

GROENE: Thank you, Chairman. This new racetrack, I seen an article in the paper about it, is that going to be a private entity or is that going to be a nonprofit or, I mean, in other words, are you going to get property taxes off of that?

RICK VEST: My understanding is that it will be privately owned. So--

GROENE: As a county, Lancaster County would do quite well on property taxes on that facility, is that correct?

RICK VEST: We would tax, yes. We would tax it appropriate to the value of the property.

GROENE: Thank you, sir.

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BRIESE: Thank you, Senator Groene. Anyone else? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Mr. Chairman. Thank you, Mr. Vest. So my understanding of the testimony here today is that the event center is basically the responsibility of Lancaster County through the guise of the ag society.

RICK VEST: Yes, that's my understanding as well.

J. CAVANAUGH: And this is to address the unfunded maintenance, deferred maintenance costs?

RICK VEST: That's a good way to state it, sir.

J. CAVANAUGH: OK. So has there been any negotiations, conversations between the Lancaster County, the ag society and the city of Lincoln to try to remedy this problem without coming to the Legislature?

RICK VEST: I think there have been conversations about the current situation with the, you know, the cost of the buildings have been spoken for. That's been addressed. But the ongoing me-- you know, you build more, you have higher maintenance costs. And certainly you can generate some revenue, but it does-- the equation doesn't work, Senator Cavanaugh. To answer your question, there have been conversations that I believe, probably more that I know, but they have not brought about any changes in the current status.

J. CAVANAUGH: The county board is in favor of this bill, but I guess I don't know where the city stands. But I have my guess.

RICK VEST: I have my guess too.

J. CAVANAUGH: I mean, it seems like there may be an opportunity for a negotiation where this could resolve this outside of this structure that we not create new legislation that maybe would address the problem locally. Does that seem fair, if the city were to-- willing to come to the table?

RICK VEST: We're always-- we have a very creative board and we're looking at all, you know, we're trying to add tools to solve the problems before us. So we would be open to any discussions along those lines, yes.

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J. CAVANAUGH: Thank you.

RICK VEST: And they're good people over there. I mean, I like all of
them and so I would be--

J. CAVANAUGH: I'm, I'm not trying to impugn the character of the city
of Lincoln.

RICK VEST: Nor am I. We're all on the same page there.

J. CAVANAUGH: My thought is just if there were, if there-- this bill
would have cost them 1.25 percent of whatever it is their take is
here. As Senator Geist pointed out, we don't know how much exactly
that is, but it seems like it might be in their interest to negotiate
a lesser allotment. That's [INAUDIBLE].

RICK VEST: I appreciate that, yes. Thank you, sir.

BRIESE: Thank you, Senator Cavanaugh. Anyone else? Seeing no other
questions, thank you for your testimony.

RICK VEST: Thank you, Senator Briese. And thank you all for all the
work you do on behalf of our state.

BRIESE: Next proponent testifier. Good morning and welcome.

AMY DICKERSON: Good morning. Senator Briese, Chairman, and members of
the General Affairs Committee, my name is Amy Dickerson, spelled A-m-y
D-i-c-k-e-r-s-o-n. I'm testifying as the managing director of the
Lancaster Event Center fairgrounds in support of LB73. And maybe I can
help with some more of these questions. I have spoken with the ag
society leaders from all five, other five counties included in this
bill. Each has critical funding needs, and the stable source of
funding in this bill would go a long way to ensure that these ag
societies in these county fairgrounds can continue their ag and
community service missions. Counties with racetracks encompass over 54
percent of Nebraska's population, and the dollars invested in these
largest county fairgrounds will earn a multiyear multiplier effect by
lowering local taxes, increasing numbers of our youth choosing to stay
in Nebraska, helping train future Nebraska workers and growing our
economy and richness of community life. Let me tell you about
Lancaster's fairgrounds as an example. Our ag society opened its, this
fairgrounds for the first time in 20 years, just 20 years ago,

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actually on this very date today, February 1. It was to provide a home for the growing county fair in our capital city here, and we're now celebrating over 150 years of the ag society. Our hardworking, visionary, ag society built this facility and relaunched it in 2015. Our annual fair is now 120,000 attendees over 10 days since the State Fair left. But our fair operations and fair grounds maintenance levies are among the lowest in the state at just over a dollar per county citizen. We keep our 160 acre facility with 9 acres under roof open year round, with no operational subsidies to be open outside of the fair time. After the fair, our next priority is to act as our country's-- our county's largest community center for 200 local events, starting with 4-H, going to some of the nonprofits mentioned by Rick and to be on standby for emergency use. Right now, we're on standby for mass vaccinations. Our next priority is to divide-- to drive economic impact by hosting over 100 regional and national events, including some of the USA's largest trade, horse and ag tourism shows. We're now attracting international youth rodeos and RV rallies with new outdoor facilities that are opening this year, growing our visitor days to an expected 650,000 this year. The 2017 Economic Impact Study, which you will have a copy of, found the \$40 million impact and that supports over 531 jobs in our county. This is projected to increase with our gross-- growth up to \$60 million this year, and that includes \$2.1 million of local taxes to the city and the county, of which 63 percent goes to the city of Lincoln, \$1.3 million a year in sales tax and three occupation taxes that go to the arena JPA fund. The remainder goes to Lancaster County. While all this growth is exciting, our fairgrounds needs a stable source of funding we can count on to create our first ever in 20 years sinking fund that will help maintain the facilities that are now 20 years old. In our benchmarking nationally, we have found that our ability to stay in the black without an ongoing public investment is very rare. Event facilities find that individual events cannot support the rent required to fully fund what in our case would soon be \$900,000 of annual facility repairs.

BRIESE: I'm going to have to cut you off there.

AMY DICKERSON: Thank you.

BRIESE: But do you have any other brief comments you'd like to make to finish up?

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AMY DICKERSON: I just wanted to finalize and say that our fairgrounds is actually nationally recognized. It benefits the whole state, not just the city and county. And our next impact study, starting with the National High School Finals Rodeo this summer, we will study that. We know it will be about \$16 million and those folks will be going all over the state. And that's why the Nebraska tourism supported us with the grant there. So I thank you for your, for your efforts on this and I welcome any questions.

BRIESE: Thank you. Any questions? Senator Brewer.

BREWER: Thank you, Mr. Chairman. All right, so you're kind of the first person we've had who has really kind of got a finger on the pulse of where you're at financially and where the issues. So we take a look, say, at 2019 and compare it to 2020, where we've had the impact of the pandemic. How big of an impact is that?

AMY DICKERSON: That's a great question. And we're-- this is, this is very timely. This bill is, is about long-term funding, but it's even more painful, Senator Brewer, you're very much aware this year with COVID. So our revenue went down over 50 percent this year.

BREWER: Fifty percent. So say, say LB73 went through, what would you use the money for?

AMY DICKERSON: Well, if we would have, let's say we would have had this funding this year in the COVID year. We would have had a reserve fund that we could have fallen back on. As it was, we didn't, we didn't. And we were-- I never spent so much time talking to Washington and talking to our Governor's Office about the different kinds of COVID funding. And we've been very fortunate to get some of that. But I will tell you that after getting one PPP loan in April, we waited all the way to the next thing that happened because we all were waiting on Congress to do another stimulus bill. That didn't happen until the last days of December. The state had some COVID funds and those came through for us in the last weeks of December. We were within days of having to lay off our remaining core staff.

BREWER: And if we take a look at a snapshot of your staff that you have that's a continuous staff there, not just your, your seasonal staff, how big a staff is that?

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AMY DICKERSON: It's about 20 people. About 12 of those are actually out on the grounds, maintaining and running the events on 160 acres and 9 acres indoors, you can imagine. The rest are booking the 300 events and providing all those services, such as ticketing and marketing and those sorts of things.

BREWER: You have 160 acres. That footprint, obviously, nine of it has, has got roofs over it, some of that is corrals that are used for the fair and all that, some is parking lot. How much of that is open for growth in the future as Lester-- Lancaster grows?

AMY DICKERSON: Well, I'm happy to report with some lodging tax grants, which we have received with support of the county board, we've now fully developed the grounds. You know, there's some improvements we can do, but this summer we will be now using all 160 acres. We're opening the 10th largest events center and campground this summer. That's what attracted the National High School Finals Rodeo and those RV rallies on just under 1,300 sites. We've added a covered grandstand, a very large outdoor arena where we can run two large rodeo arenas at the same time, for example, or a tractor pull or something, and 50 livestock pens associated with it. So it's getting good full use and it's a great place for it to be in Nebraska. You know, we've got our state fairgrounds. Some people just say we compete, we don't compete. The state fairgrounds is a great facility to bring events, and they bring a lot of big events out there to western Nebraska. And are very honed on cattle shows, they have the electricity for it. Ours was really built around the fair, horse shows and then now these trade shows, because we carpet our dirt over the winter. So those buildings are used almost every weekend of the year. So it's a great jewel to bring folks from all over the country. We had Terry Bradshaw showing quarter horse, quarter horses, you know, there, you know, a year ago. Folks are coming from coast to coast out there and coming to Nebraska to our capital city.

BREWER: All right. Thank you.

AMY DICKERSON: Thank you.

BRIESE: Thank you, Senator Brewer. Senator Groene.

GROENE: Thank you, Mr. Chairman. Could you explain to us or me, that event center with the JPA, a joint public, get around public vote so

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the two entities could just build it. What participation comes from
the city of Lincoln as far as your financial support?

AMY DICKERSON: I'm not aware of any direct support from the city of
Lincoln, sir.

GROENE: So but it's a joint-- well, in the management, what does the
city of Lincoln play a part?

AMY DICKERSON: The city is not involved in the day-to-day of the event
center and neither-- of the fairgrounds and neither is the county
board. So how, if I can just take a moment to explain the JPA. The JPA
was 20 years ago, so that's before the most recent change in the JPA
laws, right? So at the time, that was just a vote of the county board.
And there's a JPA with three members from the ag society, two from the
county board, it's been in existence since we first built the, the
fairgrounds.

GROENE: Wasn't the city involved, too, in that JPA?

AMY DICKERSON: No. In fact, when we opened, only the front third of
the property was city and two-thirds was county in the back, and it's
since been annexed. As the fairgrounds grew, I would imagine the city
probably wanted the full tax revenues.

GROENE: So the JPA was just between the ag society and the--

AMY DICKERSON: And the county board.

GROENE: That's all it was.

AMY DICKERSON: That's right.

GROENE: And they got around the vote of the people that way.

AMY DICKERSON: That's right.

GROENE: All right.

AMY DICKERSON: And the county board doesn't have any direct day-to-day
management. That's all the responsibility of the Lancaster County ag
society, to manage the day-to-day of it. But we had great support from
the county board in terms of building the facility and then finding

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lodging tax grants to improve it, which have attracted many more
visitors.

GROENE: Why do you believe the-- maybe you don't. Why do you believe
the city of Lincoln should participate in the and some of these tax
dollars then?

AMY DICKERSON: Well, as I mentioned in my testimony, they are actually
benefit more than the county board does directly from our operations.
And we have asked on an earlier question, we have asked the city
multiple times to participate. But obviously all these entities have
competing priorities.

GROENE: So the city gets all the hotel taxes, all the restaurant sales
taxes. I'm trying to figure out how that helps North Platte Nebraska,
for all the people come to Lincoln from North Platte to gamble. So how
does this help the rest of the state?

AMY DICKERSON: Well, great example you bring up a sales taxes, right?
So the city gets 1.75 percent currently, the state gets approximately
5 percent, so that goes into the state coffers. So we send even more
to the state budget than we do the city budget. So the number one
beneficiary is the state, that benefits all Nebraskans. The number two
is a city and number three is the county. And out of all that economic
impact of which we've only measured the city/county part, in our next
study this summer, when we do the rodeo, we're going to measure also
the state part.

GROENE: Excuse me, I'll just finish here, but--

AMY DICKERSON: Yeah.

GROENE: -- how does the county benefit? They don't have a sales tax.

AMY DICKERSON: They benefit from lodging tax. So when we bring folks
in and they stay--

GROENE: The tourism end of it.

AMY DICKERSON: I'm sorry?

GROENE: The tourism part.

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AMY DICKERSON: Yeah.

GROENE: The 4 percent.

AMY DICKERSON: Yeah. And also, sir, from the jobs. So if we have 531 jobs supported, those people are also paying property tax, you know, on their homes and their businesses.

GROENE: Thank you.

AMY DICKERSON: Yes.

GROENE: I'm still trying to figure out how this helps Lincoln County, but thank you.

BRIESE: Thank you, Senator Groene. Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. And thank you, is it Ms. Dickerson?

AMY DICKERSON: Um-hum.

J. CAVANAUGH: Thank you. Just sort of reading, I think this slide show is from you, correct?

AMY DICKERSON: Yes, it is. Yeah, there will be some good exhibits to help.

J. CAVANAUGH: So I'm just looking at the revenue and expenses from 2019, and maybe I'm misreading it. So the total revenue would be the \$3.5 million and then you have the restricted facility improvement grants and bond payments. Those, that's revenue on the sheet. I'm sorry, I'm looking at, well, [INAUDIBLE].

AMY DICKERSON: Yeah, on page 16.

J. CAVANAUGH: OK.

AMY DICKERSON: Yeah.

J. CAVANAUGH: So I guess I'm just trying to get a full picture, how much is the total revenue that the facility brings in to itself?

AMY DICKERSON: So for a public facility, part of the revenue is grants and tax support, right?

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J. CAVANAUGH: OK.

AMY DICKERSON: And so we've broken that out so you can see it.

J. CAVANAUGH: That's column three essentially?

AMY DICKERSON: Exactly. And that's restricted in use, you know, it has to go towards the bonds or, in the case of the lodging tax grants, it has to go through to specific improvements to attract visitors.

J. CAVANAUGH: So the actual operating revenue like ticket sales and events, grand total is the \$3.5 million.

AMY DICKERSON: That's right.

J. CAVANAUGH: And so then the expenses, you have your operating expenses which basically mirror the operating revenue.

AMY DICKERSON: That's right.

J. CAVANAUGH: And then the restricted improvement grants and bond expenses basically mirrors the public [INAUDIBLE] out there. Where does this unfunded maintenance fall on?

AMY DICKERSON: So in the middle column there, you can see that we receive \$120,000 of unrestrictive fairgrounds maintenance. That's from a very small levy that we get. And we, we spend that every year and then we go above and beyond with some extra funds that we clear out of our operating revenue to try to keep up. So we spend that every year. And as, you know, as we've grown, we really have not been able to, you know, build our own reserve. And that's very normal for, for an event facility is I benchmarked them. You cannot charge, and believe me, we've tried. We've raised every price you can think of, and you cannot raise enough funds to fund your own maintenance and upgrades.

J. CAVANAUGH: So I guess my question is, I-- did you say it was a total of \$900,000 in unfunded or was \$900,000 a year?

AMY DICKERSON: Per year. For example, there's \$26 million of value out there on a depreciated basis. And every year another \$800,000 comes off. There's a total of \$11 million of depreciation over the life of the, of the investment out there of the--

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J. CAVANAUGH: But depreciation is different than maintenance costs,
though, correct?

AMY DICKERSON: But it's based, it's based on-- in fact, I talked to my
CPA this morning about this because I wanted to be, you know, truthful
about, you know, accurate about this. That is based on a life cycle of
40 years on buildings and 7 to 10 years on equipment. So it's a good
proxy of what's, what's available. And I can tell you for, you know,
we have a good example, you know, the long list of unfunded things
that we are putting duct tape on and making it work, looking for
sponsors, looking for donors, all that kind of thing. So, you know, we
have the largest banquet hall in the county with \$80,000 of HVAC
that's ready, you know, any moment. It's 20 years old, as an example.

J. CAVANAUGH: Thank you. I'm just shocked when I heard that-- my, in
my mind \$900,000 was total. But when you have essentially total
operation of less than \$6 million, you're at basically 20 percent a
year of unfunded maintenance.

AMY DICKERSON: Yeah, and that goes to-- might be better to compare it
to the \$40 to \$60 million of economic impact that we're bringing, as
well as on top of the community value that we bring. When you look at
the \$60 million that we're going to be out now as we've expanded the
grounds, using the whole grounds to bringing those, that's a great
investment actually, for, for all of Nebraska. I'm hoping to send
something out to see Senator Arch out in Lincoln County, actually.

J. CAVANAUGH: Thank you.

AMY DICKERSON: Yeah.

BRIESE: Thank you, Senator Cavanaugh.

J. CAVANAUGH: Thank you.

BRIESE: Any other questions?

WAYNE: That's the wrong name tag.

BRIESE: Do you have any--

AMY DICKERSON: I'm sorry. Groene, right? The names are switched. I am
so sorry, yeah.

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BRIESE: Do you have a--

GROENE: I'm better looking than Arch.

AMY DICKERSON: I'm sorry, sir.

BRIESE: Do you have any anticipated building projects coming up in the
next five years?

AMY DICKERSON: I think we'd like to take a break on building. We've
been building over since we relaunched in 2015. We need to take a
breath and kind of survive this pandemic. We have some really big
events that are knocking on our doors. We haven't even had time to
market it yet. And so no other building projects. We'd like to. In
fact, we had a community, to some of you asking about have you talked
to the city? Have you talked to the county? We actually had a
community leader committee. This is how it happens in Lincoln. I don't
know if this is true every-- across the whole state, but that's how it
happens in Lincoln. Got together and they studied our situation, and
that's what they said. Please focus on how do you fund the ongoing
maintenance of what you have before you go on and, and build it. But
I'll tell you, the demand is there. Like the second largest farm show
got delayed to now the last week of February. I encourage you guys to
come out, it's actually a great time and you can see what that, how
that facility is used all year round. They would love to have another
100,000 square feet. They have a waiting list normally of 100 vendors
that come from all over the country. And we bring farmers in from all
over the region to come to that second-largest farm show every year.
So that's an example of the pent up demand of folks that we should be
happy here in Nebraska. People want to come and bring their money.
There's a lot of other states that we compete with, you know, as we
went for these national events. You know, Colorado, Wyoming, Kansas
City is building, American Royal is bringing-- building a brand new
facility, is on the books there. We compete with Des Moines,
Minnesota. And a lot of these states have different mechanisms.
They've got grants, they've got loans. And I've talked to Governor
Ricketts about in Wyoming, for example, they have lodging tax set up.
They have sales tax funding.

BRIESE: How did you survive last year with a drop off of 50 percent
revenue?

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AMY DICKERSON: I've got a great team, and I'm not a lobbyist normally, but I kind of became one. Congressman Fortenberry just called me up the other day as he drove by and said, how are you guys doing? We've been talking all year. You know, he really put a voice in for us. And we talked to Senator Sise-- Sasse and Fischer as well. So one PPP loan helped us in the first close, closure of three and a half months. Like I said, we were tooth and nail, you know, until the last weeks of December whether we were going to have to lay off our core stuff-- staff. And that would have been like cutting off our seed stock for those of us to kind of think ag, you know, because I've got to have the people to know how to run that 160 acres when I bring all those part-timers back that we're so desperately trying to find right now as we're starting to reopen. But we got a state COVID CARES grant there. And we're applying right now, sir, for a second PPP that we're eligible for.

BRIESE: OK, thank you.

AMY DICKERSON: You're welcome.

BRIESE: Senator Brandt.

BRANDT: Thank you, Chairman. Thank you, Ms. Dickinson [SIC], for testifying today. I'd like to put a plug in for equine breeders in the state. The industry has been devastated by what, with the losing of Aksarben and another tracks in the state. These people are really struggling. Where but for these people, we wouldn't even have this gaming resolution because it needed to be at a Nebraska track. So we're only talking 2.5 percent of the total here that I'm sure people will come up and argue that the cities will use it for property tax relief, whatnot or wherefor, and I am all for that. But if we take this small amount and put it toward economic development, let's see if we can get a greater return on that. Because I guess my question is we're going to build 200 new rooms out there at the new casino in that part of town. Do you have people like on this ag show, which is fantastic, I would encourage everybody here. It takes six hours to walk through. Senator Groene over there probably sells sprayers there, I'm sure he does. It's the second-largest one in the nation right behind Louisville, and I hope we can claim the number one spot. But would these people stay like at the new casino?

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AMY DICKERSON: Oh, absolutely. And I would see us starting to promote that on our, on our grounds. In fact, for the good examples of National High School Finals Rodeo, take a moment, look at our website, look at that rodeo and you'll see how we are promoting visiting all across the state because we got a huge Nebraska tourism grant. You know, those folks like to explore. So we talk to them about here's all the things to do in Lincoln and now we'll add the casino some, you know, sometime soon to that.

BRANDT: And then I guess I'd like to reference Senator Groene's comment earlier. Why don't you just charge more so that you don't have to do this?

AMY DICKERSON: We have tried. We have raised rent, we have added a facility improvement fee, we have charged for a lot of services that used to be free. You know, and I've had a lot of promoters come to me. It's to the point where it's, what do you call-- what's the saying? It's to the point of being a stuck pig, right? You know, at that point, they're saying they're going to have to go somewhere else. And so the state of Nebraska might lose these events. You know, and we do have competition all around us. You know, look at-- Google American Royal and their big plan down in Kansas City as an example. So the life doesn't stay the same with that competition.

BRANDT: All right. Thank you.

AMY DICKERSON: Thank you.

BRIESE: Thank you, Senator Brandt. Senator Wayne.

WAYNE: So do you know off the top of the hand how much money you have paid to the Lincoln County-- or to the county and to Lincoln city in occupation taxes and sales taxes?

AMY DICKERSON: I do. And there's an exhibit for you, let me reference it real quick.

WAYNE: I know the exhibit. I just know that it's not nec-- it's an attachment to the record. And I want the transcript--

AMY DICKERSON: Yes.

WAYNE: -- to read what it says.

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AMY DICKERSON: Yes, sir. Looks like-- there's a detailed page and it looks like on my little printout here, it doesn't-- here it is. So I'm going with a 2000-- 2021 estimate because based on booked business, the city will receive \$1.3 million of sales and occupation taxes. The county, \$781,000 in lodging tax and property taxes for a total of \$2.1 million. So 63 percent goes to the city. I can give to the committee a more detailed that shows exactly where that came from in terms of sales versus-- there's three kinds of occupation taxes. We send a check into the Pinnacle Bank Arena Fund for our own food and prepared food and beverage of 2 percent. And then whenever a visitor eats out in a restaurant or goes to a bar, 2 percent is collected on that, even though they're our visitors, it goes into that fund. There's also 4 percent on every hotel room and 4 percent on every rental car. So from our visitors citywide goes into that arena fund on top of the normal 1.7 percent sales tax.

WAYNE: So underneath this proposed law, where could other ag societies throughout the state of Nebraska benefit, if this were to pass.

AMY DICKERSON: So they would have-- we've been real focused because we're, we're here local and, and got here to testify. But I'm really here on behalf of all of them. I talked to all of, all of the counties and they all have different needs. Several of them have just as dire, if not more dire needs on, on maintaining their fairgrounds. And, you know, I had a light bulb kind of going through this. You know, our fair-- our levies for the fairgrounds were really set when fairs were, fairgrounds were only really open during the fair, you know? And so the levies haven't really been updated. So because now I was, I was actually surprised myself as I talked to Columbus, as I talked to Adams County, their fairgrounds are just as busy as ours. They're smaller because they're smaller fairgrounds, but they're also doing barrel races, horse races, banquets, community events every weekend almost. And so that puts wear and tear on the fairgrounds. And those levies don't keep up with that. And it also doesn't reflect the economic impact. I think the levy was set on the community impact of ag education and, and the fair, but it wasn't set in line with the economic impact. And, and I totally understand the fair question of why is this the state Legislature's problem? I believe, you know, we need to make a statement. Unfortunately, these-- the good news about how LB73 is designed, is it's our largest county fairgrounds. So if we want to make sure that that ag education happens and that economic impact happens, it's, it's good for the priority to be set at a state

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level that this is important to us. Unfortunately, cities and even a lot of our counties where the larger cities are are very urban. In Lancaster County, it's 90/10, 90 percent urban, 10 percent rural. And you can imagine that it's tough to kind of break through on why do we still care about agriculture, even though what is it, over 25 percent of our jobs, you know, in Nebraska are tied to it. And how do we keep those youth engaged in that, in that? So that's why we're here asking for a stable source. We're asking for the state Legislature to make a statement that this is a priority. The largest county fairgrounds, just like the State Fair has been made a priority. And this will benefit all ag societies So, Senator Groene, if you end up with a racetrack out there somewhere, your ag society will benefit. Almost every county has an ag society.

WAYNE: So I'm kind of naive when I pass it. Is the, is the, is the event center in Lincoln or is it in the county?

AMY DICKERSON: When it first started, it was one-third in the city, two-thirds in the county. Now it's 100 percent annexed because as we grew and the city saw the growth, obviously it makes sense to get that tax revenue. So it's 100 percent in the city. And that's good because they also support us and we appreciate it, you know, LPD and that kind of thing.

WAYNE: OK.

BRIESE: Thank you, Senator Wayne. Senator Groene.

GROENE: Thank you, Chairman. Clarification, do you do concerts, rock concerts, country western concerts?

AMY DICKERSON: Hardly at all.

GROENE: You don't?

AMY DICKERSON: Only during the fair we get local bands, because that's all we can afford with our small levy. There's other counties that are able to do that because they have a higher levy, but ours doesn't support that.

GROENE: But you do boat and travel shows.

AMY DICKERSON: We do one of those. Yeah.

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GROENE: And you do--

AMY DICKERSON: Trade shows.

GROENE: Trade shows.

AMY DICKERSON: Um-hum.

GROENE: And you do a home improvement show.

AMY DICKERSON: Yes, sir.

GROENE: So of the 100 events are-- what percentage is ag? I mean, if you want to call a rodeo an ag, I guess you could.

AMY DICKERSON: Well, I would say the majority of our events are ag tourism. And that's why the Governor and the Department of Tourism gave us an ag tourism award recently a couple of years ago. Yes, the, you know, the, the fairgrounds is being used and that's in the, you know, Steve read you the-- what it says in state law, that ag societies are there not only for agriculture, but also to support the businesses, the industry and the homes. And so that's where those other trade shows come in. And also all that use of the fairgrounds year round, if we didn't have that, we wouldn't be able to keep that horse staff so we could run such a big county fair and maintain such a big county fairgrounds. That we use that, and that was really painfully obvious this year with COVID, that we weren't funded, you know, to stay open year round and keep that, you know, ability. And to be on a moment's notice. Like right now we're on the list to be a mass vaccination site for our second-largest city, right, so.

GROENE: One quick question. But the city of Lincoln gives you no financial aid at all?

AMY DICKERSON: No, sir.

GROENE: None? They give you none of these taxes that you--

AMY DICKERSON: No, sir.

GROENE: -- you generate. Sales-- none of it back to you.

AMY DICKERSON: I'm afraid not.

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GROENE: I think Senator Cavanaugh said you have different avenues.
Thank you.

AMY DICKERSON: We have tried, sir.

BRIESE: Thank you, Senator Groene. Seeing no other questions, thank
you for your testimony.

AMY DICKERSON: Thank you so much for your time and consideration.

BRIESE: Next proponent. Good morning and welcome.

BUD SYNHORST: Good morning. My name is Bud Synhorst, B-u-d
S-y-n-h-o-r-s-t, president and CEO of the Lincoln Independent Business
Association, representing over a thousand businesses mostly located
here in Lincoln in Lancaster County. One of our missions is to
communicate the concerns of the business community to all levels of
local government. Chairman Briese and members of the General Affairs
Committee, thank you for your time to hear testimony today and for
your service to the state of Nebraska. I'm here to testify in support
of LB73, relating to the distribution of funds collected in the
Nebraska Racetrack Gaming Act. Last year, the voters of Nebraska
overwhelmingly approved games of chance to be conducted within
licensed racetrack enclosures in Nebraska. Within the measures passed,
the voters of Nebraska-- distribution would be 75 percent of the
state, 70 percent for property tax relief, 2.5 percent for Compulsive
Gamblers Assistance Fund and 2.5 percent of the general fund, the
remaining 25 percent to the cities and counties split. LIBA supports
this bill because of the value and importance ag society to our local
community and our local counties. The ag society wears many hats in
our state. They host local county fairs, work to educate the public
about agriculture and support 4-H and FFA. They're an integral,
integral, integral part of our local counties and communities. Coming
from a previous ag organization, I saw a great way. I'm going to go
off script for just a second. So I saw the way that our local ag
society was able to engage young city kids in agricultural activities
through the alpaca and llama society. So we saw a great deal of those
kids getting involved in agriculture here who went to our local
schools here in Lincoln. Locally in Lincoln, our ag society has grown
since the building of the Lancaster Events Center. They now not only
hosted the county fair and events for 4-H and FFA, they also drive
economic development to the community of Lincoln. By hosting several

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large trade shows on a regular basis, the Lancaster Event Center and Lancaster County Ag Society are bringing people to Lincoln who are spending money in our community. People are coming to Lincoln, eating in the restaurant-- our local restaurants, staying in our local hotels, shopping in our local businesses, purchasing gasoline at our local convenience stores and gas stations, and much, much more. Prior to the moving of the ag society to the location on north 48th-- or 84th, excuse me, the county fair was able to incorporate events at the former home of the Nebraska State Fair. However, when the Nebraska State Fair went to Grand Island, we lost that ability. While Lancaster County and the city of Lincoln continue to prioritize repairs of roads and bridges, LB73 would still allow additional funding for those kinds of projects in our community. I urge the committee to pass LB73 to the full Legislature. Thank you for your time, and if you have any questions, I'd be happy to answer those.

BRIESE: Thank you for your testimony, Mr. Synhorst. Any questions?

BUD SYNHORST: Senator Groene, you're going to be that easy on me?

GROENE: I'm thought your, your organization vigorously opposed the JP on that, on that event center.

BUD SYNHORST: We do. Well, our organization has always been for a vote of the people to form a JPA. This JPA was formed a long time ago. I think we could get into the intricacies of the specific JPA with the ag society in the county, but I think the city should have some skin in the game, too.

GROENE: Thank you. Appreciate it.

BRIESE: Thank you, Senator Groene. Senator Cavanaugh.

J. CAVANAUGH: Thank you. I'm gonna ask a follow-up question to that, I guess. Nothing about the current allocation of 25 percent would preclude the city from giving some money to the ag society.

BUD SYNHORST: Correct.

J. CAVANAUGH: OK.

BUD SYNHORST: Although we have a history that they have not stepped up to do that.

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J. CAVANAUGH: They haven't to, to--

BUD SYNHORST: A significant 20-year history.

J. CAVANAUGH: Thank you.

BUD SYNHORST: You bet.

BRIESE: Thank you, Senator Cavanaugh. Seeing no more questions, thank you for your testimony.

BUD SYNHORST: Thank you, all.

***BRUCE RIEKER:** Chairman Briese and members of the committee. My name is Bruce Rieker. I am the vice president of government relations for Nebraska Farm Bureau. On behalf of our 58,000 members statewide, I am testifying in support of LB73. On behalf of Nebraska Farm Bureau Federation, I offer support for LB73, the bill that would direct 10 percent of the Nebraska Racetrack Gaming Act funds earmarked for counties to their respective county agricultural society. As you probably know, the primary mission of the county agricultural societies across Nebraska is to provide an annual county fair which is a great opportunity for local farm and ranch families to provide education and showcase agriculture to their wider communities. In both rural and urban counties, most citizens do not have the opportunity to get "up close and personal" with how crops and animals are raised in their area. In most counties, agriculture is the primary engine that keeps their local economies humming. However, most do not get a hands-on opportunity to learn how their food is made and how local farmers and ranchers raise their crops and livestock. For many citizens, the local county fair provides that one opportunity to open "agriculture's door" in a fun and educational way. A greater understanding of agriculture and how our food is made goes a long way in supporting and improving the overall viability of agriculture in Nebraska. LB73 is a very positive step forward in enhancing agricultural education in Nebraska, as it would dedicate 10 percent of the 25 percent county earmarked funds towards the county agricultural societies. Because the 25 percent of gambling tax proceeds goes to counties in which there is a licensed racetrack, it is highly likely the counties impacted would be more populated just by the nature of the racetrack industry. By dedicating a portion of the counties' proceeds to the agricultural societies in these populated areas, it

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would help leverage our agriculture education efforts in Nebraska communities where it is needed most. In a way, the bill mirrors the model that we currently use in Nebraska of using a portion of the lottery proceeds to help underwrite the Nebraska State Fair which provides a huge statewide agriculture educational experience. Finally, we ask the committee to consider a minor amendment to the introduced bill, by slightly expanding the agricultural society definition to include those counties that have a "fair advisory committee" or entity similar to that rather than just an agricultural society. We understand that this would address the situation in Douglas County which does not have a formal agricultural society, and there may be a few other counties in this situation too. Thank you for your consideration of this testimony. I encourage you to support and advance LB73 out of committee. Thank you.

BRIESE: Next proponent testifier. No other proponents? We will go to opponent testimony. Good morning and welcome.

DEB SCHORR: Good morning. Senator Briese and members of the General Affairs Committee, my name is Deb Schorr, D-e-b S-c-h-o-r-r. I'm a Lancaster County commissioner and past president of the Nebraska Association of County Officials, but I'm here today testifying in my individual capacity, hoping to share with you some information I learned over my nearly 20 years in county government and to encourage you to vote against LB73. Lancaster County has a long history of financially supporting the Lancaster County Agricultural Society and the Lancaster Event Center since its inception at the 84th and Havelock location. If you could refer to page 3, you will see in the top portion the amount that Lancaster County levies each year for the fairgrounds JPA. For the past 20 years, you can see that we levied approximately \$7,000 per year for a total of \$14 million. The second section shows the amount levied for the ag society, which is broken into two separate components, the general fund and the capital fund. We have levied approximately \$325,000 per year for a total of \$6.5 million. In addition, the LDC has received funds from the Visitor Promotion Fund, which you see on the lower portion of the spreadsheet. The total from prior years received is \$5.2 million, and the LEC will receive an additional \$3.6 million in the coming years under contract for a total of \$8.8 million. If you combine all three of those categories, that is nearly \$30 million in support over a 20-year period, illustrating a strong financial relationship between the two entities. This past year has been challenging for every Nebraska

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business, large and small. But I will note that the LEC received \$750,000 in CARES Act funding from the state. When the voters approved the Nebraska Gaming Act, it's clear that cities and counties where a licensed racetrack is located would benefit financially. A large casino facility, along with convention space and a hotel building is being planned for southwest Lincoln and Lancaster County. The original language in the act allowed for 25 percent of the income remitted to the State Treasurer to be disbursed to the city and the county where the facility is located in equal amounts. Lincoln and Lancaster County have a long relationship of working together to allocate dollars to fund the most important needs facing our community. We work together to allocate federal and state road dollars through our Joint Metropolitan Planning Agency. We work together to allocate property tax dollars to nonprofits in our community, doing amazing work, serving those at risk and those in need. I can offer many more examples, but the point is we bring together elected officials, quasi-governmental entities, state experts, community stakeholders and local experts to determine what the priorities are for the limited funds that are available.

BRIESE: I'm going to have to shut you off there.

DEB SCHORR: We have a successful model.

BRIESE: Do you have any follow-up thoughts you'd like to finish with briefly or--

DEB SCHORR: You can see in my written testimony--

BRIESE: OK.

DEB SCHORR: -- I have three additional points I'd like to make. I will say over the years, I've heard from very few constituents asking for an additional funding to go to the Lancaster Event Center, but I've lost count of the hundreds of calls I've received for roads and bridges. Please don't take that opportunity away from local government to make the decisions for those in our community.

BRIESE: Thank you. Any questions? Senator Groene.

GROENE: Thank you, sir. So you perceive that this 25 percent tax or whatever, could amount to quite a bit when it's own gross gambling revenues, it's 2.5 percent, but you would put it into your roads, your

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general fund, the county's general fund and then help build rural
villages where agriculture exists in Lancaster County.

DEB SCHORR: If you ask me the most important need in our community, it
is roads and bridges.

GROENE: Yeah, throughout the county. Not just--

DEB SCHORR: Throughout the county. And also discussions amongst this
body where it could be facing a 3 percent levy limit, which would
impact how we operate and also the possible loss of inheritance tax.
So rarely do you see a new source of income come into a community.
Please give us that opportunity to prioritize our needs.

GROENE: So have you seen any indication with-- Lancaster County is
growing. Ag valuations have gone up since your charter of taxes from
\$304,000 to \$405,000 in 20 years, would that be-- the revenues, just
because of valuation increases. Have you seen any indication they had
lowered their levy?

DEB SCHORR: No, I, I will, I will leave that to them. But the levy has
remained constant, but the valuations have increased significantly.

GROENE: So they have a steady increase in income from taxation.

DEB SCHORR: Correct.

GROENE: Thank you.

BRIESE: Thank you, Senator Groene. Any other questions, Senator
Cavanaugh.

J. CAVANAUGH: Thank you, Commissioner Schorr. Nothing-- I guess the
allocation the, from Lancaster County to the fairgrounds is that part
of a contractual agreement?

DEB SCHORR: Could you, could you repeat the question?

J. CAVANAUGH: The allocations you, you list out here, is that--

DEB SCHORR: Righ.

J. CAVANAUGH: -- a result of some negotiated contract from when you
started this agreement or--

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DEB SCHORR: The, the levy has remained consistent, that is. But if you're referring to the joint, the fairgrounds JPA, that was a negotiated contract at the time that the building was, the original building was built.

J. CAVANAUGH: So I guess my question is, so this is an obligation currently. My question is, is there anything that's part of that obligation that would prevent the county from giving more money in the future once this gambling revenue comes in?

DEB SCHORR: You're exactly right. That certainly would be an opportunity for us to provide additional funding. My point here was to show the existing financial obligations that are already in place.

J. CAVANAUGH: But nothing in that agreement would prevent you from giving them more money?

DEB SCHORR: Absolutely not.

BRIESE: Thank you, Senator Cavanaugh. Anyone else? What is the ballpark, what's the county's total budget annual?

DEB SCHORR: The tax-funded support? I'm sorry, I will email you that information immediately. I don't have that at hand.

BRIESE: OK, very good. And the levy dedicated towards the ag society is how much?

DEB SCHORR: I do not know. But I do know that--

BRIESE: Somebody else said it earlier, but I didn't catch it. But, but the levy itself. OK.

DEB SCHORR: And in closing, I just wanted to say providing funding to the first person through the door with their hand out isn't a good way to make sound fiscal or financial decisions. We're here to work with the state and we appreciate your partnership in allowing cities and counties this ability.

BRIESE: OK.

DEB SCHORR: Thank you.

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BRIESE: Thank you for your testimony. Next opponent. Good morning and welcome.

JON CANNON: Good morning. Chairman Briese, distinguished members of the General Affairs Committee, my name is Jon Cannon, J-o-n C-a-n-n-o-n, I'm the executive director of the Nebraska Association of County Officials, here to testify today in opposition to LB73. First, I would like to thank Senator Geist for bringing this bill. These conversations about how we are allocating funds within and among all the various levying authorities that we have in our counties and across the state is pretty important for us to have. It's important for us to know where our tax dollars are going to. The reason that NACO is here, you've already heard from Commissioner Vest and Commissioner Schorr, and I work for each of them, so this makes my testimony just a little bit awkward. But NACO also works for all other 90-- all other 93-- all other 92 counties across the state, and in particular Adams, Dakota, Douglas, Hall, Lancaster and Platte all have racetracks within the county. That and they also have access to, well, except for Douglas, also have ag societies. And so this is something that affects a number of counties across the state, which is why NACO is here to testify. You know, first and foremost, the allocation of, of tax dollars is something that was specifically voted upon by the voters when this ballot initiative was, was passed. It was sold as property tax relief, it was sold as the-- with the notion that 70 percent was going to go toward the Property Tax Credit Cash Fund and then the remaining then 25 percent was going to go to cities and counties to be split up, amongst them, presumably for property tax relief. I can appreciate that the ag societies are taxpayer funded, that they have their own levy. And I can also appreciate the fact that their focus is a bit more narrow than the county's is. When you're talking about overall property tax relief, that is something that a broader focus is had by the counties. And so for those foregoing reasons, I would urge you to oppose LB73, and I'd be happy to take any questions.

BRIESE: Thank you. Any questions? Senator Wayne.

WAYNE: Earlier there was testimony about the county receiving tax funds. What does the county do with the tax funds they received from the center? Are they helping with, like, cost of maintenance or anything like that since there's tax funds going to the county?

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JON CANNON: If they're receiving property-- if they're receiving property tax dollars, it's going to go in primarily to the general fund, and the general fund is going to be used for, you know, the county's priorities. And so for the majority of Nebraska's counties, that's going to be roads, bridges, jails, law enforcement and elections. And--

WAYNE: No, I understand that. So it seems like there's a relationship. Obviously, there's a relationship where this facility is bringing in dollars and the county is collecting those dollars. My question is, is there a reciprocal of any type of improvement to that area from the county?

JON CANNON: Well, and I believe Commissioner Schorr had testified in a little bit more depth. And I believe she had a handout that kind of describes the various ways that Lancaster County supports the Lancaster Event Center. And I don't have that information for you, but I'll rely on hers.

WAYNE: Thank you.

JON CANNON: Yes, sir.

BRIESE: Thank you, Senator Wayne. Senator Brewer.

BREWER: Thank you, Mr. Chairman. All right, and maybe this should have been the previous testifier's question, but since you're in the gun sight here, we'll go ahead and take it.

JON CANNON: Well, sir, if I'm in the gun sight and you're the one that's aiming, I'm in big trouble.

BREWER: Maybe. So we look at the two categories that are listed on this, this handout. And again, if this is, this is over your head because you're just-- you just work for them, then just sing out and I'll shift fire here. You've got the tax request, then you've got the levy annually and bonding payments. Either one or both of these, are they unrestricted funds? Otherwise they're given to the ag society and they're allowed to use for whatever they want, or is there certain restrictions put with the money that's given to them?

JON CANNON: Well, I, sir, I believe those are restricted funds. But I will want to double check and get back to you on that first.

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BREWER: Because, because obviously the question is going to come up. I mean, these are, these are big numbers, but if you've got nine acres under a roof, you're going to be doing a lot of roof repairs. And if you're expanding the facilities, I mean, I could see how this money would be eaten pretty fast. And then you're, you're living on simply the money that you're getting for events. And, and so even though the numbers are pretty big, I don't know if that's realistic, if your burden is also to expand and improve the facility along with running all the events for the facility.

JON CANNON: Yes, sir. And, and I agree. I have a great deal of sympathy for the Lancaster Ag Society and the Event Center. I've used the facility before, I think it's a great place for people to go and visit. And I encourage every member of this committee to do so, partially for my own benefit as a resident of Lancaster County. But what I will say, though, is that, to echo what Commissioner Schorr had said earlier, the county board has a broader focus and they're the ones that prioritize where our property tax dollars go. And in those situations, you know, as was testified earlier, the pandemic affected everybody. And I think it's the board's proper place to determine, OK, what should the priorities be? Is the, is one particular group within under the, under the county's levy authority, are they going to be favored more than any others? And I think the board's focus is on that. And so to the extent that Commissioner Vest is speaking for the majority of the, the Lancaster County Board, that's something that when the Lancaster County Board undertakes their spending priorities, they're in a great position to determine how much funding they're going to provide to the Lancaster County Event Center.

BREWER: Providing the revisionary. Yes, I agree.

JON CANNON: Yes, sir.

BREWER: Thank you.

JON CANNON: Yes, sir. Thank you.

BRIESE: Thank you, Senator Brewer. Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. And thank you, Mr. Cannon?

JON CANNON: Yes, sir.

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J. CAVANAUGH: So I think there's kind of two arguments here. One is obviously the economic development argument to get a return on our investment for paying for the facility, but we have based off of this local agreement there's an obligation for the local government to support the event center, correct?

JON CANNON: That is correct, sir.

J. CAVANAUGH: Are there other types of local agreements in other counties or that maybe would be a similar obligation that we're going to, if we adopt this change, are going to come back and say, you made this change for ag societies, therefore you should come and make a change for us as well?

JON CANNON: That would be purely speculative on my part, Senator. But I think it's reasonable to expect that that would happen.

J. CAVANAUGH: The question is not whether somebody is actually going to do it. I'm saying, are there other similarly situated entities that could make that argument?

JON CANNON: There are. Off the top of my head, I couldn't tell you where and who, but there are.

J. CAVANAUGH: Thank you.

JON CANNON: Yes, sir.

BRIESE: Thank you, Senator Cavanaugh. Senator Brandt.

BRANDT: Thank you, Mr. Chairman. Thank you, Mr. Cannon, for testifying today. Really quick, it, it seems to me when Nebraska passed the Lottery Act that the funds were to be split evenly between education and environment, and then we entered a situation where we move the State Fair. And I know it's a little different because that's state versus county, and then the Legislature took the initiative to use 10 percent of those funds now go to the State Fair and then they cut back on the education and environmental portions that. I sort of look at this as very similar to that. Do you have an opinion on that?

JON CANNON: You know, I, I tend to agree with you, sir. It, it is very similar in its structure. However, we just passed this and it is something that, I mean, I remember when I was-- when I had petitions

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presented to me and when I was voting, the information I was given was this is, this is intended for property tax relief. And, you know, and property tax relief in a very broad form. First to the state, 70 percent of the state, and then 25 percent remaining to the cities and the counties. And so in my mind as, as a voter, my expectation is this goes to general property tax relief, but not specific to any particular group.

BRANDT: OK, thank you.

JON CANNON: Yes, sir.

BRIESE: Thank you, Senator Brandt. Senator Groene.

GROENE: Thank you, Chairman. When the sponsors of this initiative came up with this 431, which is the statute portion of it, not the constitutional change, did you have any input about the 25 percent going to only three or four counties?

JON CANNON: No, sir.

GROENE: They didn't ask you?

JON CANNON: No, sir.

GROENE: So wouldn't a better bill be that we changed it to say that 25 percent goes to split up between all the counties?

JON CANNON: I would probably want to visit with the NACO board. I, I understand where you're coming from and, and that seems extremely equitable all across the state. However, not every county has a racetrack. And so I'm sure that that would, that would probably create a certain amount of angst within my own board. And so I don't want to volunteer them until I actually have the chance to brief them.

GROENE: Do-- so maybe they put the 25-- I assume maybe they put the 25 percent in those counties because they're going to have to hire more deputies because of the type of people that gamble. Including me. But anyway, but I don't understand what the expense-- I actually don't understand the expense that would come to those counties because there's a gambling casino there.

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JON CANNON: You're going to have greater volume of people that are going to be using the roads and bridges, it's going to create, you know, it's going to increase the deterioration of those, those sorts of things over time. You know, as you know, a number of our rural bridges are scour critical, actually a number of our county bridges are scour critical at this point. And so they're already in need of repair. And so those basic infrastructure costs are going to be borne if you have an increase in traffic that, that's coming into the county.

GROENE: Excuse me, but I believe the one in Grand Island and the one in Lincoln are in the city limits. The county doesn't fix the bridges and the streets in the city limits, do you?

JON CANNON: People are, they're going over roads and bridges to get there, though. Before--

GROENE: On the interstate, does the county, Lancaster County, have anything to do with the interstate where people come from Lincoln and to come from North Platte to Lincoln?

JON CANNON: No, sir. That would be the feds and the DOT.

GROENE: Or the state highways that they travel? Highway 6.

JON CANNON: That would be DOT, sir.

GROENE: That wouldn't be the county would it?

JON CANNON: No, sir.

GROENE: Thank you.

JON CANNON: Yes, sir.

BRIESE: Thank you, Senator Groene. Anyone else? Seeing other questions, thank you for your testimony.

JON CANNON: Thank you. Have a great day

BRIESE: You as well. Thank you. Next opponent testifier. Good morning and welcome.

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ERIC GERRARD: Good morning, Senator Briese, members of the General Affairs Committee. Welcome, Senator Arch. My name is Eric Gerrard, that is spelled E-r-i-c, last name G-e-r-r-a-r-d, and I represent the city of Lincoln. I'm here to testify in opposition to LB73 on behalf of the city of Lincoln. So too bad Senator Cavanaugh stepped up, because he was asking where the city of Lincoln may be on this. I would like to make three primary points that outline why the city of Lincoln as opposed to LB73, which seeks to change the allocation of local revenue that will be generated by the recently passed casino gambling ballot initiative. First, and I think you've heard it today, the voters of Nebraska just voted on this proposal less than three months ago and the allocation of that funding, and we believe the will of the voters, should be carried out. This bill seeks to undo or to alter the vote that just took place in November. I certainly didn't help craft that. That language wasn't asked, I'm not expecting that I should be asked, but I do think that the crafters of the language were intentional in how they allocated that funding. And I think as voters, when we read the petition, we knew what went into the allocation of that funding. And I think that did play into, to how some people voted yes or no on the initiative. The inclusion of property tax relief, a certain percentage to the Gambler's Assistance Fund, money to the State General Fund, and then funding for cities and counties was intentional. Candidly, I think this is the primary reason that this bill should not advance this year. Secondly, in the city of Lincoln, we are still very much in recovery mode from COVID-19 pandemic. I know many others are as well, including the Lancaster County Event Center. I don't want to diminish that. The pandemic has put a significant strain on our entire community, our city staff and on city revenue sources. We are experiencing declines in our estimated revenue over the past year. The reality is that our top priority remains essential city services. This past week has been an example of our prior, priority area needs to remain on essential city services like public safety, roads and infrastructure needs. Lincoln is experiencing significant growth and we're thrilled with that. We're happy about that. But with growth comes further demand for those services that I just described. The revenue project-- and I can remember who asked it, the revenue projections are difficult before a shovel is even in the ground on a project like this. But it is likely that any new revenue will be used for essential city services. The other area of financial uncertainty that relates to the ballot initiative is the impact to keno funding in our city. In our latest budget cycle, there is roughly

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\$5 mill-- \$5 million allocated to projects from keno funding. Those projects include parks, libraries and other important human service agencies. It remains to be seen what the impact of casino gaming will have on those keno funds. The last point that I'll make, and I'll make it briefly, goes back to the intent of the ballot measure. There is likely a nexus between the proportion of funding and the need for additional services by the city of Lincoln and Lancaster County. While the Lancaster County Event Center and the ag society do serve a significant role in our community, there's not that direct correlation to the casino that will be built in Lincoln. The planned casino will likely bring additional traffic to our roads, potential calls to our police and fire teams and other necessary services near the casino. Again, that goes back to the ballot measure being intentional about the language that was included. With that, I see that my red light is getting close. So I will wrap up and say that the city of Lincoln opposes LB73, and I will try to answer any questions that you have. Thank you.

BRIESE: Thank you. Any questions?

GROENE: One quick.

BRIESE: Senator Groene.

GROENE: How do you interpret the, the part that says: partially within a city or village distributes this percentage evenly between the county and city or village? Fifty-fifty?

ERIC GERRARD: Yeah. And I'm looking at the bill, I'm on line 23, 24, page 2. I'm guessing that's where you are.

GROENE: I'm reading the petition.

ERIC GERRARD: So that's why in Lincoln, for example, you have the casino. So it's in the city of Lincoln or presumably will be. Yeah, it would be split 50/50 evenly between the city of Lincoln and Lancaster County.

GROENE: Thank you.

BRIESE: Thank you, Senator Groene. Any other questions? We talked earlier about what kind of dollars are at stake here, and I would suggest it might-- we might be talking about \$2.5 million total across

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the state, across these various locations. And so depending on the level of revenue allocated to each location, the city of Lincoln might be talking about a few hundred thousand here at stake. What's your total budget?

ERIC GERRARD: The general fund last year was around \$176 million.

BRIESE: Is-- if it is only a few hundred thousand that's at stake here, do you still oppose this bill?

ERIC GERRARD: We do. And actually, Senator Brandt and I have had that conversation in the hallway. And although it may seem insignificant compared to the rest of our budget, it's still, you know, in our mind goes to those essential city services, city needs. I also think, and I appreciate Senator Geist's kind of candor in saying this, that she wanted to be first to the table for a project that's important to her. I do worry about the precedent. You know, if something were to pass this year, it's a, it's a great idea to come in and, and continue going after that, that source of revenue. So those would be the, the main sources of opposition, even despite the, I think is, not to put words in your mouth, but less than a significant amount compared to the rest of the budget.

BRIESE: OK. Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. Thank you, Mr. Gerrard. I missed the beginning of your remarks, but since you're here for Lincoln, I got to ask you the question about, you know, we've heard today, there's been a great demonstration of the value that the event center brings to the city and county and the expenses and the costs that they bear. Has-- is there an opportunity for the city to come to the table and bring in some more to help alleviate this? Because obviously the city does have just off of this one sheet, the city gets, it looks like \$2.1 million in collected taxes as a result of the event center. And as Chairman Briese just pointed out, it's potentially possible that the amount of money we're talking about here is substantially less than that amount. So I guess the question I've asked a few other folks is, is Lincoln willing to help meet up the shortfall for the event center?

ERIC GERRARD: So I think the answer to the question is, yes, we would definitely be at the table and have those conversations. And Senator

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Geist and Mary and some representatives from the city talked in December about that. And I've talked with the lobbying firm for the Lancaster County Ag Society, so we're more than willing to have those conversations. I think what it comes down to is what the community-- we'll have community conversations and I guess gauge what the community feels like the need for that is or the need for, for funding from the city of Lincoln. I don't dispute anything that, that was said today. From my, from my understanding, the city of Lincoln has not contributed to the Lancaster County Event Center or ag society in the past. And I tried to ask our finance team that. I also don't think there's anything preventing that, you know, whether it be through interlocal or some other mechanism. So probably a long-winded way to answer your question, but, yes, we, we will-- we're willing to sit down and continue to have those conversations. There have probably been many more conversations that I haven't been a part of, so I don't want to misrepresent that there haven't been more, more conversations.

J. CAVANAUGH: Thank you.

BRIESE: Thank you, Senator Cavanaugh. Seeing no other questions, thank you for your testimony.

ERIC GERRARD: Thank you.

BRIESE: The next opposition testifier. Good morning and welcome.

LYNN REX: Thank you. Senator Briese, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We're here respectfully opposing LB73 today on behalf of municipalities across the state. We have five municipalities that would be directly impacted. For example, even though South Sioux City, Nebraska, the racetrack currently is not in South Sioux City, my understanding is that the new track may very well is planned to be in South Sioux City. At the sake of being a little bit redundant, the reasons for our opposition are, quite frankly, this. First and foremost, as Lancaster County Commissioner Deb Schorr indicated, this is a function of local priority setting and who should set that priority. There's nothing that precludes Lancaster County from giving more funds to the Lancaster County Event Center or the ag society. But for those that may not have been here during her testimony, it is significant, just from my notes, based on what she said, the millions and millions of dollars that are already allocated to that. I think

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she said that we're looking at, oh, my gosh, \$700,00 a year for total \$14 million over a period of years, plus other funding as well. So in addition, Lancaster County can make that decision today, if they chose to do that. It is a function of priorities. Folks elect people on the local level so they can make those kinds of decisions. This is critically important because, again, she said to you that, in fact, the priorities in Lancaster County predominantly would be streets, roads, that sort of thing, roads and highways. That's true for most counties, law enforcement and other kinds of needs. And to Eric Gerrard's point of this is just the beginning, what do you do then when the rural fire districts come to you and say they'd like to have part of that allocation? The list goes on. There are a number of entities within that 15 cent allocation the counties have in the same way that municipalities have that as well. I would indicate to you as well that municipalities across the state, and certainly municipalities that would be impacted with this bill, also are facing issues because of COVID-19. Serious issues. And if you look at Lan-- Lincoln, Nebraska, the impacts on Pinnacle Bank Arena alone as one I-- is just one in many examples. So with that, this is a function of the fact this just recently passed. I know I'm saying things that have already been stated. It's already-- this just recently passed. You're looking at a long list of suspects that will be coming before you in the years to come wanting the same sort of treatment. And in addition, the impacts of COVID-19, we hope the Lancaster County Event Center will recover. We hope our municipalities and the state of Nebraska will recover as well. And we will. To that end, I've been to the Lancaster County Event Center many times. It's a great facility. So is Pinnacle Bank Arena, so is Fonner Park, so are other facilities across the state. So with that, I'm happy to answer any questions you might have. But we strongly oppose this bill. I think the precedent is important. The intent of those that were involved in drafting this is clear, and that's why it was sold on that basis.

BRIESE: OK, thank you. Any questions? Senator Groene.

GROENE: Thank you, sir. Has the League estimated how many tax dollars we're talking about here for the cities?

LYNN REX: You know, no. I don't know that there's any clear indication. What I can tell you is that, and this is-- I don't have any idea exactly how accurate it is, but some of the information that was put out in promoting this talked about \$65 million of additional

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tax funds. But I know there are others here today on other, other
bills that might be able to tell you, I don't know what the projection
is. I don't know if anybody knows. I don't know that we're going to
know until it happens.

GROENE: Thank you. So that's what I estimated because when they did
the petition, they estimated \$40 million into the Property Tax Credit
Fund. I had to figure that out. It's about \$65 million overall.

LYNN REX: Sixty-five million in additional taxes.

GROENE: So [INAUDIBLE] cities--

LYNN REX: That was in the promotion material of "Keep the Money in
Nebraska."

GROENE: So three or four counties, cities and counties, Hall,
Lancaster, Dakota--

LYNN REX: Platte.

GROENE: -- split up about \$12 million, is that correct? New revenues.

LYNN REX: Potentially.

GROENE: Sounds pretty good to me. Thank you.

LYNN REX: Thank you very much for the question.

BRIESE: And a point of clarification here, would you agree with this,
that I believe the fiscal note on LB560 indicates \$65 to \$68 million
going into the Property Tax Credit Fund per year by year two. And
that's how I came up with that \$2.5 million made--

LYNN REX: Oh, OK.

BRIESE: -- to stake on this proposal here allocated among the various
entities. That's an estimate, of course. But based on that, if 70
percent is \$65 to \$68 million, our 2.5 percent is close to \$2.5
million.

LYNN REX: Yes. I guess my point too, just underscoring the point that
when folks voted for this, they did so based on what this distribution
was going to be.

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BRIESE: Sure. Thank you for your testimony.

LYNN REX: Thank you very much. Thanks for the opportunity.

BRIESE: Yeah. Next opposition testifier. Good morning and welcome.

JACK CHELOHA: Good morning, Senator Briese and members of the General Affairs Committee. My name is Jack Cheloha, that's spelled J-a-c-k, last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha and I'd like to testify in opposition to LB73 this morning. Thank you very much for hearing, hearing me today. As the committee has heard so far, it sounds like essentially this is a dispute between Lincoln and Lancaster County, but however, as Senator Geist had to write her bill that affects the state on a statewide basis. So obviously this would affect us in Omaha and Douglas County, so that's why I'm here today. We oppose the bill for three different reasons. You've heard probably them mostly, first and foremost, the ballot language. You know, here's a copy of it that was just passed in November. It's quite clear in terms of how it will be taxed on their initiative measure 431 and how that tax will be distributed. And so we think it's important that this committee follow the will of the voters and, and not be diverting from that at this point in time. Secondly, there is a race track within Omaha and Douglas County, I think it's commonly called Horseman's Park. With that, we would qualify under this new initiative to receive a portion of the taxes because it is within the city limits. With that, we anticipate that the city would have responsibilities relative to the new casino, everything from, you know, building permits and inspection to calls after the fact for whether it be police or fire or public works for the streets to be opened, to get to it, etcetera. And according to, you know, the initiative, it's also to be dedicated towards property tax relief, which we would take the funds and put them in our general fund, and hopefully that would help our levy. And then finally, the last reason why the city of Omaha opposes this is the proposal in LB73 is to give some money to the ag societies, if you will, and the Douglas County Ag Society is not even active. And so, therefore, you know, it wouldn't be relevant at this point in time. They've really struggled to even put on a county fair in, in the past years. And so for those three reasons, we oppose it. And I'll try to answer any questions.

BRIESE: OK, thank you for your testimony. Any questions? Seeing none, thank you again.

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JACK CHELOHA: Thank you very much.

***BRUCE BOHRER:** Good morning, Chairman Briese and members of the General Affairs Committee. My name is Bruce Bohrer, I am a registered lobbyist for the Lincoln Chamber of Commerce. Thank you for the opportunity to submit testimony on behalf of the Lincoln Chamber in opposition to LB73, which seeks to place into state law a directive to earmark 10 percent of certain funds collected under the Nebraska Racetrack Gaming Act to the benefit of the county agricultural society. The Lincoln Chamber respectfully opposes LB73 and urges its rejection for the following reasons: 1. LB73 significantly alters the original language of Initiative Laws 20202, 431, as reviewed and voted upon by the citizens of Nebraska. The original language of Initiative 431 outlined a division of local funds between the county and city/village or the county only depending on the location of the licensed racetrack enclosure. No mention was made of funds directed to the county agriculture society; 2. The proposed language under LB73 decreases discretionary funds available to local governments, again in contrast to the language voted upon under Initiative 431; 3. The state directed earmark under LB73 is contrary to principles of local control, which also makes it different than the original language of Initiative 431; 4. LB73 limits the flexibility of local elected officials who are in the best position to determine where funds are most needed, or in other words analyze and prioritize spending. While this anticipated additional local funding from the success of Initiative 431 is welcome, there likely will be other impacts that are not anticipated; 5. LB73 pre-determines and locks in a funding directive before all the facts of a new situation and funding stream are fully understood. At this point it is not even possible to have a full and reasonable understanding since we have no experience to reason from. In closing, while the Lincoln Chamber understands and respects Senator Geist's inclination to assist a valued local venue that has struggled (as many have) under the current COVID-19 disruption, the Chamber respectfully opposes the need for a state-directed earmark as proposed under LB73. Local control should remain a valuable and accountable means for dealing with this concern. Thank you for your consideration.

BRIESE: Next opposition testifier. Seeing no additional opposition testimony, anyone wishing to testify in the neutral position? Good morning and welcome.

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TOM SAGE: Chairman Briese, members of the committee, thank you for giving me the opportunity this morning to speak with you. My name is Tom Sage, that's T-o-m S-a-g-e. I'm the executive secretary of the Nebraska Racing Commission and I am representing the Racing Commission today before you. On Friday, January 29th, the Racing Commission had their monthly meeting. And part of the meeting was the discussion of all LBs that are going to be heard before your committee today. In specifics, we're going to talk about LB73 today. The commission heard the bill, listened to the bill, listened to different industry participants, discussed the bill. The commission ultimately voted to take a neutral stance on this bill. They wanted me to appear before you to let them know, let you know that it is a neutral stance, but also make myself available to answer any questions the committee may have. In listening to some of the testimony earlier, I'd just like to clarify a couple of things for the, for the committee. Five of our racetracks are located in cities within the counties. One is, was mentioned here a little bit ago, the track in South Sioux City is in Dakota County. That isn't inside the city limits. That may be changing in the near future. I would anticipate all six racetracks that have casinos will be within the city, within a county. So with that being said, I'd just open up if you have any questions or if I can help you any way on LB73, I'm here for you.

BRIESE: Thank you, Mr. Sage. Any questions?

TOM SAGE: Thank you.

BRIESE: Seeing none, thank you again. Any other neutral testifiers? Seeing none, we do have two letters of support, one letter in opposition, one letter in the neutral position. That will close the hearing-- excuse me, Senator Geist, you would like to close, I believe. I'll cut you out. My apologies for that.

GEIST: Oh, no problem. And I just want to compliment Jonathan, the page, on the cleanest chair in the Capitol. Thank you, Jonathan. Just in closing, thank you for your time. Some really good questions. I understand the opposition, I knew it was coming. And I even understand their, their points. One of the things I just want you to consider is in bringing this forward we came up on this creatively to not ask citizens for property taxes. Lincoln is, has high property taxes. And so in trying to weigh, for instance, Pinnacle Bank Arena has a JPA that it receives some maintenance and expenses taxes for it. It also

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levies an occupation tax. None of those things are, are revenue funding stream for the, for the county and fairground. Also, I would say that the pandemic kind of exposed this need even greater. But had the pandemic not occurred, we would probably still be here today because there-- they would be in a better situation financially, yes, but the question of that steady funding for maintenance and all of that, it would still be there. It's highlighted much more now. And the recovery time that that will take is really undetermined. So those are the things I just want to leave you with. I appreciate your, your engagement and the great questions and the good conversation we've had. And I look forward to pushing this forward.

BRIESE: Thank you, Senator Geist.

GEIST: Thank you.

BRIESE: Any questions for the senator? Seeing none, thank you again.

GEIST: Thank you.

BRIESE: That will close the hearing on LB73. We will now go to LB580. Good morning and welcome, Senator Moser. Go ahead and proceed when you're ready.

MOSER: Good morning. Are we ready to start?

BRIESE: You bet.

MOSER: OK, thanks for giving us the opportunity to come to your committee today and talk about LB580. This is a bill that has a pretty simple premise. Part of the language of the initiative said in Section 2, this was approved by the voters at the election in November: Notwithstanding any other provision of the law to the full extent permitted by the Constitution of Nebraska, including amendments to the Constitution of Nebraska adopted contemporaneously with the enactment of the Nebraska Racetrack Gaming Act-- this is the critical sentence-- the operation of games of chance is permitted only by authorized gaming operators within licensed racetrack enclosures as provided in the act. I had a constituent come to me and asked me for clarification of that language because he represents a group and they're going to come up to testify, their representative will testify, because he felt that this language in taking on face value in kind of plain language might conflict with some other forms of gambling. So what's at stake

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here is, well, their livelihood, of course, but not just that. We also have \$50 million a year that Nebraska takes in in gambling revenue. So if gambling can only occur at a facility that has a racetrack, the lottery and keno and bingo and all these other forms of gambling could be illegal. I asked the Attorney General for an opinion on whether this language conflicted with the current authorizations for gambling, and he said that there was no bill pending. And so he declined to offer an opinion. So I entered this bill so we have a bill pending, and he should have one of his deputies issue the opinion shortly. It may be a week or two before we hear what the latest opinion from the Attorney General is. But you can see from the language, notwithstanding any other provision of the law, that games of chance are permitted only by authorized gaming operators within racetracks as provided in the act. You can see how there might be some question. And some of the attorneys for some of the other gambling interests feel like this language is not an interference with current forms of gambling. My constituent thinks that there is a question, and so I entered this bill to try to resolve this before it gets to be a bigger problem. Because of the-- if there is no advice from the attorney general, then, you know, there may be a lawsuit entered by somebody. I don't know who. But just to clarify, you know, it may have to go to court. So we're hoping to avoid that and make it a smoother transition. So that's basically the bill. And if you have questions, I'd be glad to answer any of them. I know you had a long morning, so I'm trying to shorten my story a little bit.

BRIESE: Thank you, Senator Moser. Any questions? Senator Arch.

ARCH: Thank you. Any idea how fast they can turn around an opinion on something like this?

MOSER: Well, I talked to one of the deputy attorney generals, attorneys general about a week ago, and he was in the process of composing it and researching it. He had gotten some letters, well, from us and from my constituent and who has attorney, Bill Kurtenbach. He'll be up to talk a little bit in a few minutes. So he's reading all these letters and analyzing their legal arguments and trying to, to boil it down to its lowest common denominator so it, that it's legal. And so it could be a week, 10 days. I don't know.

ARCH: The point is the research is in process.

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MOSER: Yes. Yeah. I wouldn't IP, IPP me real quick. [INAUDIBLE] keep it around, keep the pressure on until we get an answer. Because if you dump me, then they may start peddling again and then we won't have that answer so.

ARCH: Thank you.

MOSER: The first time I asked them, they declined to answer because they're not supposed to rule on the constitutionality of current law unless there's pending legislation, even though a senator asks. I'm not sure that-- and I won't finish that sentence.

BRIESE: Thank you, Senator Arch. Anyone else? Thank you for your opening, Senator Moser.

MOSER: Hey, I'm glad to be second everytime. Thank you very much.

BRIESE: Yeah, thank you. We'll open it up to proponent testimony. Good morning and welcome.

WILLIAM D. KURTENBACH: Good morning. My name is Bill Kurtenbach, I am the attorney for the Nebraska Cooperative Government. It's been a while since I've been before this committee. We used to do quite a bit. So I think, first of all, I'll kind of give you an idea of who I represent. The Nebraska Cooperative Government is an interlocal entity created pursuant to County and City Lottery Act and the Interlocal Cooperation Act, which was created by about, give or take, 100 Nebraska cities, counties and villages who all have entered into the same interlocal agreement for the purpose of conducting a joint lottery in all those communities. The Nebraska Cooperative Government has in turn hired community lottery systems, otherwise known as Lotto Nebraska, which is Mr. Paul-- former Senator Schumacher's company to serve as our lottery operator and takes care of many of the day-to-day operations of the lottery.

BRIESE: Can I interrupt you to spell your name for the record?

WILLIAM D. KURTENBACH: Oh, sure. K-u-r-t-e-n-b-a-c-h.

BRIESE: Thank you.

WILLIAM D. KURTENBACH: William D.. The Nebraska Cooperative Government was started in May of 1990, and since then we've had over \$400 million

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in sales, which resulted in over 800-- \$8 million in state lottery tax, we pay a 2 percent state lottery tax, and over \$40 million to our communities, which are used to fund community betterment projects. That ranges everything from infrastructure, sewers, streets, things like that, fire equipment and property tax relief. And since during the process, we created this grant fund. And with this grant fund, we recently we were able to fund a smart thermometer project whereby we bought over 2,000 smart thermometers, kind of like a Fitbit. And the wearer-- it periodically takes the temperature of the wearer and anonymously transmits the, that data to the university so the university has information, they can see when a fever is rising. And the, they notify the local health departments and they can take remedial action. The-- we're here to endorse LB580, because I think it would remedy what I hope would be unintended consequences of Initiative 430. If you look at the text of 430, first of all says, notwithstanding any other provision of law. That would include the City County [SIC] Lottery Act, the State Lottery Act, the statutory authority for pickle cards and bingo games and every other form of gambling in Nebraska. But regardless of what the County and City Lottery Act, the State Lottery Act says, operation of games of chance. What are games of chance? The state lottery, keno, pickles, bingo, all that is permitted only by authorized gaming operators within licensed racetrack enclosures. So it says that you, that all these various forms of gaming can only be done in licensed racetrack enclosures. The-- you wouldn't have your local keno game at your local tavern. You wouldn't have the state lottery being sold in your, in your convenience stores. You wouldn't have bingo in the church basement. All the gambling in Nebraska would have to be in a licensed racetrack enclosure.

BRIESE: I'm going to have to ask you to finish up here, if you have any brief comments.

WILLIAM D. KURTENBACH: Oh, I didn't even see the light. Well--

BRIESE: If you have any brief comments. Go ahead.

WILLIAM D. KURTENBACH: Just briefly, give me another minute. You know, of course, you are going to interpret the, the text of the initiative. You look at the ballot language for 430, "only" was not in the ballot language. It said: allows games of chance to be conducted by authorized gaming operators within licensed racetrack controlled

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enclosures. So LB580 reflects the ballot language. That's what the people voted on, was the ballot language. They didn't read the text of it. But, but the courts are going to interpret the text of it. So what we're saying is this reflects what the people voted on. This will avoid any confusion as far as whether these other games, county and city lotteries, state lottery, can be operated as we are doing now.

BRIESE: OK.

WILLIAM D. KURTENBACH: So I ask you, like I said, we-- LB580.

BRIESE: Very good, thank you. Any questions?

WILLIAM D. KURTENBACH: Thank you.

BRIESE: Any questions?

WILLIAM D. KURTENBACH: All righty, thank you.

BRIESE: Hold a second. Depending on how we get this resolved and what we come up with maybe later testimony or other legal research, if we left the only language in there, but specifically excluded Keno on lotteries from the reach of this thing, that would be sufficient, too, from your perspective.

WILLIAM D. KURTENBACH: Right. It just needs to clarify that these other forms of gambling can be-- can be conducted outside of licensed racetrack enclosures because you can add a clause, something like notwithstanding any other provision of law except County and City Lottery Act, things like that.

BRIESE: Point is, there's other ways to accomplish what you're trying to accomplish. If there is--

WILLIAM D. KURTENBACH: Right. This is probably the cleanest--

BRIESE: OK, thank you.

WILLIAM D. KURTENBACH: --and simplest way, but, yeah, there are other ways to do it.

BRIESE: Thank you for your testimony.

WILLIAM D. KURTENBACH: Thank you.

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***JULIA PLUCKER:** Chairman Briese and members of the General Affairs Committee. My name is Julia Plucker, spelled J-U-L-I-A P-L-U-C-K-E-R, and I am here today as a registered lobbyist on behalf of Paul Schumacher of Community Lottery System Inc., in order to express support on LB580. Paul would have liked to be here in person but is preemptively quarantined in Florida with his wife, Michele, who is undergoing treatment for stage IV cancer near her siblings. The Committee will hear testimony from Bill Kurtenbach, a former county attorney, and a veteran attorney with 30 years of experience in the public administration of statewide gaming and with hands-on experience in developing 5 petition drives, 2 of which were approved by the voters. Few, if any, other attorneys in Nebraska are in a position to offer better guidance on both gaming and initiatives. We encourage you to listen to his testimony, exploit his knowledge, and then consider thoughtfully the resolution of the Nebraska Cooperative Government (NCG) he will transmit to you. While the most noteworthy accomplishment for Paul may have been the conception and implementation of the NCG, and while his unfulfilled ambition remains the raising of the New City, his greatest honor was to serve 8 years in the Unicameral. It is in the fading echoes of that service that he respectfully offers these cautionary remarks: Because of the inability of past Legislatures to rationally respond to the overwhelming public support for gaming, the state finds itself ill-prepared and on the cusp of a new reality. On the bright side, gaming commands substantial financial resources and has the potential to accomplish great public good. On the dark side, once underway, it rapidly acquires the ability to buy the lobby and intercede in political campaigns with overwhelming force. Early errors and omissions in governance may be irreversible, miss great opportunities for public good, and risk becoming fertile grounds for deep and lasting corruption. It is no secret among people sponsoring gaming initiative petition drives that the petition language is structured to reward them for sponsoring the petition and to give the sponsors and their affiliates vastly superior market position, often in unobvious ways. A period of laissez faire, high profitability, is expected while legislators and regulators don't know what they don't know and are simply not ready to deal with the myriad of governance issues thrust upon them. Left to flounder about, stampeded into reaction, and conveniently looking to the sponsors' lobbyist and attorneys for guidance, they are easy prey. It is against that you must exercise vigilance.

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BRIESE: Next, testifier in support. Anyone wishing to testify in
opposition to LB580? Good morning and welcome.

LANCE MORGAN: Thank you. Start?

BRIESE: Yeah.

LANCE MORGAN: My name is Lance Morgan. I'm the CEO of Ho-Chunk, Inc.,
and L-a-n-c-e M-o-r-g-a-n. And Ho-Chunk, Inc. is a company owned by
the tribe, Winnebago tribe of Nebraska, and we also co-sponsored the
Keep the Money in Nebraska initiative, and we are an opponent of this
bill. We think it's unnecessary and potentially the first step in wide
scale gaming expansion. You know, we have spent-- I've dedicated at
least two years and we tried before, but so more talking about this,
Keep the Money in Nebraska, advertising it, doing any number of
interviews. And we basically had two consistent messages. One,
basically take the money back from Iowa. And I think that-- that--
that was one of our large selling points. The other one was we were
going to-- this was going to be a measured, limited approach to
expanded gaming in-- in Nebraska. I think that somebody just mentioned
that the language didn't use the word "only" in the ballot. We did not
write the ballot language, the state did. But one of the key factors
in the approval has always been the limited nature of it, the limited
nature of it, the limited nature of it. And-- and I think that-- I
think that we had 65 to 69 percent approval, so it was pretty
overwhelming. Keno, and other forms of gaming, never really came up in
our-- and it certainly was not a target of what we were trying to do.
And so this-- this came as a little bit of a surprise to us. One of
our lawyers is going to testify in detail on this subject. But I think
the gist of it is, is going to be that Keno has a separate
authorization under the Lottery Act and so it's probably not in
trouble and hopefully the-- the Attorney General will fix this and
clarify it quite soon. But my concern is removing the word "only" to
solve a problem that doesn't really exist or can be solved in a
different way, is a bit of a red herring designed to be a distraction
from possibly another goal. You know, I don't know this to be the
case, but when you work for an Indian tribe, you become a conspiracy
theorist a little bit because bad things happen to you. And so
removing the word "only" is-- could be the first step in sort of
expanding the locations of gaming. And if you're going to go all the
way with it, you know, including potentially places that have Keno.
And so this really could contradict, I think, you know, years of

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effort and years of educating people that this was going to be a limited expansion in gaming. And so we-- we certainly-- we oppose it as unnecessary. And I guess that hopefully the Attorney General will solve it. If there is a clarification on this, then there's probably a better way to do it and to-- to make sure that the will of the people in this kept in-- is kept.

BRIESE: Very good. Thank you, Mr. Morgan. Any questions? Senator Groene.

GROENE: Thank you, Chairman. I'm not trying to make you skip lunch, but there's a black area here, and I don't understand. How did we go from the constitutional amendment which you guys sponsored that doesn't have the word "only", to the word "only" being added into this-- to our statute. Some-- who put "only" in there?

LANCE MORGAN: We put "only" in the beginning. That was what we submitted to the state. We submitted that to the state. I actually didn't even-- I'd have to look.

GROENE: People didn't vote on "only", so why did you put "only"-- how did you get to write the bill?

LANCE MORGAN: Well, we sponsored--

GROENE: I mean, the statute--

LANCE MORGAN: We sponsored the initial-- I'm sorry, you're distractingly handsome, so--

GROENE: Excuse me. I want to make it clear. How did-- how did you get to write the statute that interpreted the constitutional amendment.

LANCE MORGAN: We-- we proposed the constitutional amendment.

GROENE: All right.

LANCE MORGAN: And so we put in the language and the state then takes that language and puts it on the ballot. I think it was also-- I think the-- the only language is also included in detail. But the actual question is not-- is not drafted by us. It's drafted by the state.

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GROENE: So, I sign the petition. The petitioner reads me what's going to go in the statute, and I signed it or voted on it. The word "only" wasn't any-- in anything I voted for, so how did it end up in the statute? Like I'm-- somebody needs to clarify that to me.

LANCE MORGAN: Yeah, it's potentially it was always in the statute.

GROENE: Thank you.

BRIESE: Thank you, Senator Groene. Anyone else? Seeing no other questions, thank you for your testimony.

LANCE MORGAN: I was making a joke about you being so handsome, but it didn't really go, so sorry. It distracted me.

GROENE: Hard of hearing though, I will admit that.

LANCE MORGAN: Thank you.

BRIESE: Next testifier in opposition. Good morning and welcome.

ANDY BARRY: Good morning, Senator Briese, members of the committee. Thank you for the opportunity to address you today. My name is Andy Barry, A-n-d-y B-a-r-r-y. I'm an attorney at Cline, Williams. I represented the sponsors of Initiative 429, 430 and 431 before the Nebraska Secretary of State and in the Nebraska Supreme Court. I continue to represent Ho-Chunk, Inc., and I'm here to testify today in opposition to LB580. I think it's important to keep in mind the structure. There's actually three amendments, or three cons-- sorry. There were three initiatives at issue here. Initiative 429 was a constitutional initiative. It amended the Constitution to allow for the legislative authorization of games of chance. Then Initiative 430 is a statutory amendment. It created the Nebraska State Gaming Commission and authorizes games of chance within licensed racetrack enclosures. And then Initiative 431 is a statutory amendment that provides for taxation, which you were addressing at the-- at the prior hearing today. Initiative 429, the constitutional provision is part of the Constitution, so this body has no authority on its own to change that. Initiative-- and then it's important to keep in mind that on Initiative 430 under Article 3, Section 2 of the Nebraska Constitution, a vote of a two-thirds majority of the Legislature would be required to change the provisions of the Initiative 430, which is the Racetrack Gaming Act. I want to address what the question that Mr.

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Kurtenbach referred to earlier and we think that really isn't a question. If you go back and look at the language and structure of the Nebraska Constitution on gambling, that's Article 3, Section 24. There's a distinction there between games of chance on the one hand, and lotteries, raffles and gift enterprises on the other hand. They're treated separately in the Constitution. And then when you look at Keno, that was authorized under the Nebraska County and City Lottery Act, which by-- as its name indicates, that's done under the lottery provisions of Article 3, Section 24. And the definition of Keno under that act is specifically a form of lottery. So the games of chance language that's dealt with in Initiative 429 and carried over into Initiative 430 just isn't-- it's just not applicable here. There's no problem for LB580 to solve. However, the language that LB580 addresses would create an entirely new issue that's inconsistent with the mandate of the overwhelming majority of Nebraska voters who approved the three-- three initiatives limiting gaming to a licensed racetrack enclosures. Many people are concerned about unlimited expanded gaming. The idea of video slots in every gas station, or the possibility of casinos on any given corner, and this issue was vetted in arguments we made to the Nebraska Supreme Court. It was addressed in the arguments, pro and con to voters in Nebraska as part of the process, and the overwhelming majority of voters voted to adopt the restriction that's in current law.

BRIESE: Thank you for that. Any questions? Senator Brandt.

BRANDT: Going back to what Senator Groene stated before, what was on the ballot that we voted on? Was the word "only" on the ballot that the people voted on?

ANDY BARRY: What-- I don't recall specifically what the ballot said, and I don't have it with me, so I apologize. I can't answer the question directly. I can speak to the process. The language that was submitted to the Secretary of State had the word "only".

BRANDT: I don't want to split a fine hair here, but you had hundreds of thousands of people vote on a ballot. And all I'm asking is, was the word "only" on the ballot or was it not on the ballot?

ANDY BARRY: I can't answer that question directly today.

BRANDT: OK. Thank you.

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BRIESE: Thank you, Senator Brandt. Senator Wayne.

WAYNE: I can't believe, as an attorney, we're testifying and you don't know the basic of what was on the ballot. I'm having a hard time understanding that. There's no way I would come before this committee as an attorney and the central question is a text that is read from what was voted and what's not, and to say we don't know, I think that's disingenuous to the committee process. Second. We can't--

MOSER: I apologize for helping you.

ANDY BARRY: Oh, thank you.

WAYNE: We can't continue--

MOSER: Here's the question here.

ANDY BARRY: OK.

WAYNE: Thank you, Senator Moser. We-- this type of discrepancy can throw out an entire industry. And so "only" is or is not on there, is a major issue when we're talking about as-- as constitutional law as statute interpretation. If it's not ambiguous, we're going to go off the plain language. So I'm asking you as their legal representative, I'm asking you as somebody who's familiar and has just read what was on the ballot, is there a disconnect between what was on the ballot and what's on the statute and why not-- the second question is, why not give what the voters voted on?

ANDY BARRY: Sure, and I'm happy to-- I'm happy to address all of that. So I mean, I'm sure-- and actually, Senator Moser handed me the ballot language. So the ballot language itself says it doesn't-- does not include the word "only". But I'd like to place that in context because the constitutional context in Nebraska is that gambling is not allowed unless it's specifically authorized. OK. So the authorization to begin with in the-- in the proposed ballot language that was provided to the Secretary of State did include the word "only". And that's-- that's the language that was proposed.

WAYNE: But you would agree, we don't get to the proposed language, the legislative history, unless it's unin-- less ambiguous, right?

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ANDY BARRY: Yeah, I do agree with that. And I'm-- can I-- I want to
come back to that in just a second.

WAYNE: OK, I'm sorry, go ahead.

ANDY BARRY: So then that language then goes to the Attorney General to
write the language on the ballot. I don't want to put words in the
mouth of the Attorney General, but I think the way the Attorney
General's Office must have approached this is, the word "only" is
superfluous here because gambling is not authorized in Nebraska unless
it's specifically permitted. So this is a specific permission for
games of chance in licensed racetrack enclosures. Otherwise, it's not
allowed under Nebraska law. That's the structure of Nebraska law. So
that when voters were voting on this, they were voting for the
restriction to license racetrack enclosures. I don't think you can
read this language and conclude that voters were voting to authorize
games of chance outside of licensed racetrack enclosures. That would
go against that plain language.

WAYNE: But only mean something, right?

ANDY BARRY: It does. And I think what I'm saying is and again, you'd
have to ask the Attorney General's Office for why they wrote the
language the way they did. It means that it's-- that it's limited to
licensed racetrack enclosures and that's what this language actually
says. Why-- why it was not included by the Attorney General in the
text on the ballot, I can't answer that question.

WAYNE: But it wasn't included. So-- so why-- why are you testifying in
opposition to striking the word "only"?

ANDY BARRY: Sure, because it-- this law still needs to be interpreted
in accordance with its own language and the Nebraska Constitution, so
that the expansion of gambling under Initiative 429 and Initiative 430
is limited to licensed racetrack enclosures.

WAYNE: So-- so let's follow up on that. So then what-- how does your
client hurt or how are they damaged if "only" is erased?

ANDY BARRY: Well, there's-- there's two issues there. For one thing,
when my client sponsored this legislation and promoted it to the
voters in Nebraska, and when I stood in front of the Nebraska Supreme
Court and answered questions about this, our position was, this is not

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wholesale expansion of gambling everywhere in the state of Nebraska. And so part of this is just being consistent in what was proposed to voters. I really think the bigger issue for this committee is, what did voters actually vote on? And I don't think there's any way you can read the language of LB429 or LB430 and say that voters were voting to authorize an expansion of gaming beyond licensed racetrack enclosures. I happen to agree with what Senator Kurtenbach said earlier. And Senator Wayne, I want to make sure I answered the last part of your question and hopefully this does it, but I'm-- when you talked about, you know, an industry like the Keno industry, the way to address this and the way to address it in a way that's consistent with what voters actually approved is to change the definition. If you think there's any question, we don't think there really is any ambiguity, but the definition of games of chance in Article 3, Section 3, I mean, there's a definition there. So it would be easy to exclude Keno or bingo or-- or anything else that is not-- not a game of chance or, you know, what-- what this committee wants to protect from that definition of games of chance.

WAYNE: I hear your answer, but I still don't know what your clients are going to lose by changing the word-- by deleting the word "only". Like, usually when people come and testify whether it's in front of my Committee for Urban Affairs, whether it's in this committee, or when I was on Judiciary, there's a change happening to the law and there's opponents and proponents typically on these type of statutes because it's going to affect them like we had earlier, somebody's going to lose revenue or somebody is going to gain revenue. But I'm trying to figure out is what are you losing?

ANDY BARRY: So-- so in-- I don't know how many tens, and it probably ran to hundreds of pages of letters and briefs that we submitted to the Nebraska Secretary of State and the Nebraska Supreme Court in the process of seeking placement of this provision on the ballot. My clients were constantly challenged and being said that they were-- that they were supporting wholesale expansion of gaming in Nebraska and that-- and this was going to result in widespread gaming. And that's not true. And we're here maintaining the integrity of our client's position.

WAYNE: OK. And last question because we're running out of time or I would have a lot more questions for-- for our standpoint. What is the difference between "only" and "within"? Doesn't-- doesn't-- doesn't it

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limit it to when it says within licensed race enclosures? Isn't that essentially saying only license-- only licensed racetrack enclosures can have it?

ANDY BARRY: I would agree with that. I think "only" is a word of emphasis here. But again, if you-- if you step back and look at the way that gambling is treated under Nebraska's Constitution, it's only allowed where it's expressly allowed. So the words "only" and "within" refer to gaming within licensed racetrack enclosures.

WAYNE: Thank you, Vice Chairman Lowe.

LOWE: Senator Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chairman Lowe, and thank you, Mr. Barry. I just wanted-- have a clarifying question. The language on the ballot is not-- was not the statutory language, correct? I'm not asking to parse words.

ANDY BARRY: No. No, that's the way that it always works. You have statutory language that is all, maybe not all if there's a very simple change to a statute, maybe the entire-- the entire amendment will be on the ballot, but that's usually not practicable. That would not have been practicable here. It was a multi-page statutory amendment. So Nebraska law gives the Attorney General the ability to draft that language. And that's-- that's where this came from.

J. CAVANAUGH: So the discussion that you and Senator Wayne we're just engaging in had to do with the Attorney General's summation of the statutory language.

ANDY BARRY: That's correct.

J. CAVANAUGH: So it was not the actual proposed statute that we voted on. It was a short summary to fit on the page.

ANDY BARRY: That's right. And then the-- and then the full language is available on a whole range of context from the Secretary of State. It's published in newspapers. It's available on a Website. So anybody who wants to read the full language of the statute has easy access to it. But on the ballot itself, it's that language that's written by the Attorney General.

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J. CAVANAUGH: And that's where the discrepancy comes from in this particular conversation.

ANDY BARRY: If-- if you view it as a discrepancy and I think maybe Senator Wayne and I agree at this point that "only" is emphasizing that it's-- that it has to be at a racetrack.

J. CAVANAUGH: My point is it's not a discrepancy in the interpretation, it's a discrepancy in what words actually appeared in July.

ANDY BARRY: Yeah, correct.

J. CAVANAUGH: So the language that we voted on as the state, as the citizens and adopted is not word for word what appeared on the ballot, and that's out of a sense of economy and not out of a sense of attempted deception necessarily.

ANDY BARRY: Well, there was no intent to deceive by anybody, you know, certainly not on the part of my client. And I-- and I'm 100 percent certain the Attorney General wasn't trying to deceive anybody and was doing its job of explaining to voters what was-- what was on the ballot.

J. CAVANAUGH: Thank you.

BRIESE: Thank you, Senator Cavanaugh. Senator Groene.

GROENE: Thank you, Senator Briese. I'm confused here. I thought the Secretary of State handled ballot initiatives and writes the language, not the Attorney General.

ANDY BARRY: The Secretary of State receives the ballot initiative and then sends it to the Attorney General for drafting and then it comes back to the Secretary of State.

GROENE: I didn't realize that. But I'm looking at the ballot and then the full text of proposed measure 430. I don't see the word "only" in it. Object statement, I don't see it. Can you give us the information where you had "only" in the information you had sent to the Secretary of State? I'm looking at the object statement and it says proposed text of statutory initiative petition, text for an act relating to gaming to amend sections. I don't see the word in there either.

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[INAUDIBLE] of Nebraska racetrack add to offer a game of chance as prescribed to create a commission to provide for the regulation of games of chance, to define the terms. Is that the Nebraska Racetrack Gaming Act or just-- so I'm trying to figure out who wrote this state-- I'm assuming 90 days after the election, it was put into law by-- by whoever writes our-- our statutes and I'm still can't-- so I would love to see proposed text of statutory initiative petition. I do not see anywhere in there the word "only". I'd like to-- some proof.

ANDY BARRY: Well, in whatever procedure that-- that the committee would like--

GROENE: You could get it to the Chairman.

ANDY BARRY: Yeah, I'm happy to provide to the Chairman that--

GROENE: If that's OK with the Chairman.

ANDY BARRY: --the text of the statute. And that is what-- the reason Senator Moser is asking for the amendment is because of that language which was then provided to the Revisor of Statutes, which is--

GROENE: Yeah, Revisor of Statutes.

ANDY BARRY: Right.

GROENE: Who gave the Revisor of Statutes this language notwithstanding any other provision and the word "only" in it? Would that have been the Secretary of State or would that--

ANDY BARRY: I'm assuming-- I'm assuming that would have been the Secretary of-- that's the Secretary of State's responsibility to provide that to the Revisor of Statutes.

GROENE: I'd still like to see some evidence. I mean, I'm not saying you're lying, I'm just confused. I--

ANDY BARRY: I can-- I can--

GROENE: --about the petition process, you can say one thing and act something else.

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ANDY BARRY: Right. What I can provide you is the language that was provided by my clients to the Secretary of State that will include the word "only"-- that did include the word "only".

GROENE: Thank you.

BRIESE: Thank you, Senator Groene. Anyone else? A couple of questions. Fair to say that expansion of gambling beyond the racetrack enclosures was not part of the strategy or discussion or purpose of what was presented to the voters.

ANDY BARRY: That's true.

BRIESE: Yes. And fair to say that the clear implication of the language that was-- that they voted on that was on the ballot, is that expansion is limited to licensed racetrack enclosures.

ANDY BARRY: I think that's the only fair way to read the ballot language.

BRIESE: OK, thank you.

ANDY BARRY: Thank you very much.

BRIESE: Senator Brandt.

BRANDT: Along that mindset, and it is also fair that there was no intent to remove any of the existing lottery Keno bingo games of chance that are existing today underneath state statute.

ANDY BARRY: That's also correct.

BRANDT: OK, thank you.

ANDY BARRY: I can-- I can address that. One-- one other thing. The way that that, the constitutional language is drafted, it really is drafted prospectively. So I think there's yet another-- yet other indication in the constitutional initiative that there was no intent to disturb the existing structure.

BRIESE: Senator Lowe.

LOWE: Sorry to extend our short lunch period. [LAUGHTER] There was some talk-- thank you for coming today and testifying-- Mr. Morgan for

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coming again. There was some talk during-- about when the ballot was going around that if we passed this, it would allow the Indian reservations to also enact some gambling casinos wherever they had land. Do you know if there's any talk of that or if there's any fact to that?

ANDY BARRY: Sure. Cognizant of-- I don't want to cut too much into your lunch period, I want to give you a--

LOWE: I could use a diet.

ANDY BARRY: Right. So I want to be clear about a couple of things. There's a specific process for that, that's laid out in federal law. And it's-- it's a lengthy process. I'll leave it at that. And I can answer-- I can do my best to answer some questions about it. I'm, by no means an expert, but I did have to study it when we brief these issues to the Nebraska Supreme Court. So I can say it's a lengthy process. The land at issue has to be land in trust. So if a tribe wanted to buy land in, for example, North Platte or Hastings, that's not something they can just do. There's another process for placing land in a trust. That's very difficult. So with all of that said, I'm personally not aware of any efforts by tribes to invoke that process.

LOWE: All right, thank you very much.

BRIESE: Thank you, Senator Lowe. Anyone else?

ANDY BARRY: But I would-- I wouldn't necessarily be the first person you'd-- that you'd want to ask that question, but I'm not aware of it.

BRIESE: Senator Wayne.

WAYNE: But it is true that underneath Senator Lowe's questioning that right now, reservation land can pop up a casino and there's nothing the state can do about it.

ANDY BARRY: No, that's not true. So there's-- there's a lengthy process that the state and a tribe would have to engage in. So if a tribe wanted to-- to start a casino-- for this-- for this type of expanded gaming, I mean, there's some sort of-- there's some-- there's some other classes of gaming in Nebraska where casino gaming is already allowed on tribal land but it's not what people typically think of as casino style gaming. So put that to the side for a second.

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If a tribe wanted to engage in this type of expanded casino style gaming, they would need to initiate a process with the state in order to do that. And that's done with the involvement of the federal government. And there's-- I'm going to forget the year of the case, but in the 1990s, there's a provision in the federal statute to give the tribes the right to go into court and file a lawsuit if the state doesn't negotiate in good faith and-- and the state of Nebraska is immune from that type of a lawsuit. The U.S. Supreme Court has ruled that. So then that statutory remedy has been removed from the tribe.

WAYNE: But isn't it true that once the Constitution allows-- let's take hemp, let's take cannabis. Once Nebraska Constitution allows and authorize that, we can't discriminate and stop a tribe from doing it, even if it's on land, even if it's on-- especially if it's on reservation land, we can't stop them because they're a sovereign nation. So once we open the door, they can have a casino. There may be a process, but the state can't stop them because we'd be discriminating against a federally recognized tribe.

ANDY BARRY: I would say whether the state can stop it is sort of an open question right now, at least in the 8th Circuit. Certainly the state could slow it down. So in terms of your question, there's nothing that can be done. This is-- and I apologize if I misinterpreted. I interpret as there will just be automatic gaming on Indian land. That's not the case.

WAYNE: I'll wait to Senator Briese's bill to ask more questions.

BRIESE: Oh, good. Thank you, Senator Wayne. Any other questions?
Senator Groene.

GROENE: This is an important issue, but the reservation is a sovereign nation, right? I mean, basically a sovereign nation.

ANDY BARRY: The tribe is a sovereign nation.

GROENE: So do they have to get approval from the racing commission to start a racetrack?

ANDY BARRY: No, the tribe would not have to get approval from the racing commission. That would be this whole separate other federal process that limits gaming on Indian lands, where the state have--

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GROENE: So if they put quarter horse racetrack up a quarter mile, a couple of bleachers out there, then they can automatically build a casino, right?

ANDY BARRY: No, it can't-- it cannot be done automatically. That's-- that's-- that's-- that's what I'm saying. It's not-- it's not automatic.

GROENE: They can do the racetrack on their own without approval of the racing commission, but they can't build a casino. I mean, this--

ANDY BARRY: Yeah, so this is-- I think I--

GROENE: I think I'm starting to think I should have a robe on here, but anyway. [LAUGHTER]

ANDY BARRY: Yeah, and so-- so you're-- you're asking whether the state law authorizes gaming on Indian land if the tribe builds its own racetrack on its own land.

GROENE: Yeah.

ANDY BARRY: I don't know enough about Indian law to answer that question. It-- that-- that could be true that they-- that they would have the same protections and benefits under the laws as anybody else. There's also tribal law to be considered. And I apologize, I just didn't come today prepared to answer that question.

GROENE: I'm just confused in the date world because my wife is from Emerson, Nebraska and if that isn't casino in Emerson, Nebraska, I don't know what it is on an Indian reservation. But anyway, thank you.

BRIESE: Thank you, Senator Groene. Anyone else? Seeing no other questions, thank you for your testimony.

ANDY BARRY: Thank you very much.

BRIESE: Next testifier in opposition. Seeing no other testifier in opposition, any neutral testimony?

LYNN REX: Senator Briese, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We appreciate the opportunity to be here today and

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thank Senator Moser for introducing this bill for the discussion purposes. From the League's perspective, there are a number of municipalities, obviously, that are a part of the cooperative-- Nebraska cooperative group, and the Nebraska City and County Lottery Act. And I can assure you their attorneys have reviewed this. And in addition, all of those that deal with pickle cards, all the attorneys that deal with any other type bingo, any other types of gambling. What has been presented to you is basically the way that we understand that this would operate, which is the word "only" has significance and so with that and I don't know, Senator Wayne, if the word "within" and "only" are the same, but here is what I can tell you, though. And that is in looking at the actual language and looking at the full text of the proposed measure 430, it has the word "only" in it. My goodness, I mean, all the ads that were run in statewide newspapers and elsewhere so people could see what the actual language would be, all of the ads were on television and radio that this is going to limit it to racing tracks, and you think about the number of-- of-- of folks that were saying that. And the League, by the way, we did not support or oppose and we have no position on these three initiatives. So that being said, we're looking forward to the Attorney General's opinion to see how he views this language. But I can assure you that if any of these industries, whether it's Keno, whether it's Big Red Keno, the pickle card industry, any of these other industries thought that they would be negatively impacted, that would have been part of an effort statewide. And frankly, the League probably would have been a part of that effort statewide to oppose this had that been the case. So in any event, we look forward to the Attorney General's opinion. We also think that it's really important to note that the word "only" is clearly in the proposed text, not in the ballot-- not of what was voted on in terms of the actual language which has already been read to you. Shall the statute be enacted which allows games of chance to be conducted by authorized gaming operators within licensed racetrack enclosures in Nebraska, establishes in Nebraska Gaming Commission to license and regulate such gaming and amends with repeals existing same sections of law and harmonize provisions consistent with the enactment of such statute. So, again, any way you cut it, the perception statewide and I think the reality is that this does not allow outside of licensed racetracks and that that word "only" is an important word. But we're happy to work with this committee if there's a need for clarification. We certainly don't want to see anything that has a negative impact on Keno because of the significant role that that's

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played in community better-- betterment operations across the state.
So with that, I'm happy to answer any questions you might have.

BRIESE: Thank you for your testimony. Any questions? Seeing none,
thank you again.

LYNN REX: Thank you, Senator.

BRIESE: Any other neutral testimony? Seeing none, I do see that we
have one letter of support for this bill. Senator Moser, would you
like to close?

MOSER: Should have just sprayed each one of us down when we came in.

BRIESE: Welcome again.

MOSER: Well, I apologize for bringing such a weighty question to you
so close to noon. But as you can see, words matter. And the word
"only" concerned one of the Keno operators and the removal of "only"
concerns the people who supported the petition in the first place.
They feel it dilutes their authorization. And a lot on Nebraska, I
think is the right thing, feels that the "only" precluded them from
doing business. So the Attorney General's opinion may give us clarity
and we may be able to leave it as it is. Should the Attorney General's
opinion not, you know, give us a clear forward path on this, there are
other ways that we could possibly add a clause to clarify that. One
that might do that is this section shall not be construed to restrict
games of chance otherwise authorized by the Legislature. So and, you
know, I'm not an attorney and I don't play one on TV. I just-- I just
had a constituent that had serious business at stake. And I know that
the people who wrote the initiative spent a lot of time and money in
it, and they're a little sensitive about their territory too. And so
my goal is to move forward together and keep all the various gambling
interests protected as we move forward-- protects the state of
Nebraska and our tax revenue. It gives equal opportunity to the people
who are operating gambling within the state. So any other questions?

BRIESE: OK, thank you for that. Any questions? Seeing none, thank you.

MOSER: Thank you very much. Apologize for overstaying my welcome.

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BRIESE: You're always-- you're always welcome here. With that, we'll close the hearing on LB580 and commence the hearing on LB371. Good morning. And welcome Senator Aguilar.

AGUILAR: Good afternoon, Chairman Briese, and members of the General Affairs Committee. My name is Senator Ray Aguilar, R-a-y A-g-u-i-l-a-r. I represent the 35th Legislative District in Hall County. I'm here this afternoon to introduce LB371. I was asked to carry LB371 on behalf of Fonner Park, home of the State Fair. LB371 would change the restriction imposed upon activities in the vicinity of a fair to permit games of chance to be conducted pursuant to the Nebraska Racetrack Gaming Act. At the moment, three racetracks host a fair. They are Farm Park in Grand Island, Agricultural Park in Columbus, FairPlay Park in Hastings. Under the current statute, if these racetracks chose to construct a casino, they would be required to stop their gaming operation for the duration of the fair, or the fair would need to relocate. It should be obvious that neither of these options are ideal for the casino or the fair. Many of the racetracks have infrastructure in place for the operation of the fair, which would be difficult and costly to replace. And the casino would experience the forced closure of its gaming operation for a period of time. LB371 would add games of chance pursuant to the Nebraska Racetrack Gaming Act, to the list of exceptions for types of gaming permitted within 40 rods or 660 feet of an enclosure where a county, district or state fair is being held. As forms of gaming have been approved, the Legislature has historically updated this section of law to allow them to be conducted within the vicinity of the fair. If you look at Section 2-219, you will note that this includes exceptions for bingo, lotteries, raffles, parimutuel betting and pickle cards. I need to make it very clear that this does not authorize games of chance to be conducted within the fair itself. This will not put poker tables next to the ferris wheel. The fair would not become a licensed operator of games of chance. Only the racetrack casino located on the same property but separate from the fair will be. The State Gaming Commission has been tasked under the Racetrack Gaming Act with promulgating rules and regulations to restrict games of chance within licensed facilities, and LB371 would permit these activities as they are regulated, meaning within the casino to be conducted within the vicinity of where the fair is being held. This would permit the casino constructed at the racetrack to operate parallel to the fair. I also believe that by allowing these casinos to operate during the duration

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of their respective fairs, we will allow the fairs and casinos to have a mutual beneficial relationship. Visitors to the fair may visit the casino. Visitors to the casino may visit the fair. They will not be obligated to visit both, but would have the opportunity to do so. That separation will be clear. Failure to expand Section 2-219 to include the Racetrack Gaming Act has the capacity to cause financial issues for the racetracks who will be impacted. They will be able to speak for these implications better. Additionally, since the state is taxing the revenues for games of chance, the counties, cities and state will experience a sizable loss of revenue that would benefit property tax release and other revenue streams. The solution to avoiding these implications is LB371. LB371 would be the latest adjustment of many to Section 2-219 that will reflect the will of the voters to approve the Racetrack Gaming Act. LB371 is supported by the State Fair Board and I believe you'll be hearing from Fonner Park shortly. I ask for your support in moving LB371 forward so we can allow our racetracks to fully benefit from the Nebraska Racetrack Gaming Act and respect the will of the voters who approved it. Thank you.

BRIESE: Thank you, Senator Aguilar. Any questions for the Senator? Seeing none, thanks again. Open it up to proponent testifiers. Good afternoon and welcome.

CHRIS KOTULAK: Thank you. It is afternoon now, isn't it? Chairman Briese, Senators of the committee, ladies and gentlemen in the room, thank you for allowing me to speak. It has been a long morning, so I intend to just be as brief as I can. I don't intend to regurgitate anything that Senator Aguilar brought up already or restate, maybe in a little kinder way to say that, I'm here to answer any questions that you might have. But I do want to emphasize that Fonner Park has been around since 1954. We were-- the concept of Fonner Park was to be a pillar of civic and agricultural events and affairs. And it has been for nearly 70 years. We are certainly a cornerstone of the community of Grand Island and the community of central Nebraska. And the community is an important element to us, to the point that we take our role very seriously in Grand Island. And we-- we are certainly community-minded to the extent that the fair is part of Fonner Park, the Hall County Fair and the Nebraska State Fair. I'll be back later on this afternoon to testify in another hearing. And I'll expound a little bit more on my particular role as CEO of Fonner Park. But I want to say that when one of my members of my staff dug through the archaic statutes and learned about 40 rods, I knew that there were two

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things I needed to do immediately. And that was, one, address this statute, this archaic statute, and amend it and also engage with the fair themselves and get their-- get their point of view on that. And for that reason, we engage with Senator Aguilar. I'll just tell you, just again, I'll try to be brief, but one thing I emphasized with the fair and the fair board and as Senator Aguilar said, we have approval from both the Hall County Fair and the State Fair, but we didn't get that approval without me presenting to them. And I assured them that not only will there be zero effect on our plans to develop a casino in Grand Island at Fonner Park for the 2021 fair, but the physical footprint that Fonner Park has had for the duration of the fair coming to Fonner Park for nearly-- well, more than 10 years, is we will not expand on that footprint. We plan to just maintain what we have for the course of the fair. And I think that was important for them to-- to hear that. We-- we understand what's good for the fair is good for Fonner, what's good for Fonner is good for the fair, and so too does the fair. So that's-- that's my just general response to what Senator Aguilar had to say. I can-- I can tell you a little bit about the numbers and then I'll call it quits. We're talking for roughly--

BRIESE: I'm going to have to cut you off there.

CHRIS KOTULAK: OK.

BRIESE: If you have any brief comments, feel free. But otherwise, we can talk problems this afternoon too, but go ahead.

CHRIS KOTULAK: I'll-- I'll wait till this afternoon.

BRIESE: OK, and could you spell your name for the record?

CHRIS KOTULAK: Oh, I beg your pardon, yes. Chris, C-h-r-i-s, Kotulak, K-o-t-u-l-a-k. That's Slovak.

BRIESE: Very good. Thank you.

CHRIS KOTULAK: In case you're wondering.

BRIESE: Any questions? Senator Groene.

GROENE: Yes. I want to skip supper too. [LAUGHTER] A fair, I would say, with family entertainment, I wouldn't say gambling is. Anyway we

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don't allow liquor bars right next to schools. So families come to the fair and dad decides to go to a casino. Do you see a conflict there?

CHRIS KOTULAK: I don't see a conflict there. Currently, if you go to the fair, you could play a lottery game of chance if you want. Lottery tickets are available at the fair. I-- I certainly don't see an issue whereby someone under age would make it into the fair because it'll be easier for someone-- for a minor to get into a game at Memorial Stadium than it would be to get into a casino with all the security that we do have. So certainly minors couldn't get in. If mom or dad or grandma wants to go in and play a game of chance in some air conditioning during the fair, they're certainly welcome to. Yeah, but-- but there would certainly be a defined perimeter about where that could take place.

GROENE: Are you planning on building a casino like Circus Circus where the kids can go play when mom and dad are gambling?

CHRIS KOTULAK: They can go-- if they choose to come with their parents, we intend on building a destination as a casino. We do not intend on building a giant maintainer shed and with-- with a bunch of slot machines in there. This will be an entire experience for the entire family. Of course, children, not-- not part of that.

GROENE: Thank you.

CHRIS KOTULAK: Um-hum.

BRIESE: Thank you, Senator Groene. Anyone else? Seeing no other questions, thank you for your testimony.

CHRIS KOTULAK: Thank you.

BRIESE: Our next proponent testifier. Seeing no others, anyone wishing to testify in opposition? Seeing none, anyone wishing to testify in the neutral capacity?

TOM SAGE: I wish I could just say ditto, but I know you need that for the record here, so I'll be real quick. Tom Sage, that's S-a-g-e. I'm the executive secretary at Nebraska Racing Commission. And again, I'm here before you on behalf of the commission. Again on Friday, the 29th of January, we had our commission meeting. LB371 was discussed. After looking at the bill and receiving some testimony from our-- our

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public, our horse racing industry participants, the commission voted neutral on this bill. Again, they wanted me here before you to answer any questions regarding this bill. I would tell you that some of the concerns I've heard about the youth maybe being able to get into the facility. As you may be aware of, I've also been working on some of the gaming rules. I don't see how that could happen. But-- but that's for another day, another story. So if I could answer any questions, I'm here for you.

BRIESE: Thank you for your testimony. Senator Groene.

GROENE: I want to clarify my comments. I did not say I was concerned about the youth getting in the--

TOM SAGE: I understand.

GROENE: I didn't say that. Nobody did. What I said, his mom and dad in there and the kid sitting out in the sun or roaming the-- I don't think that's--

TOM SAGE: Sure, sure, I understand, Senator. My comment was, we will have regulations just in general to make sure that no youth would get in. No, I understand your point that you made and my comments wasn't toward your point at all.

GROENE: All right. Thank you, sir.

BRIESE: Thank you, Senator Groene. Senator Lowe.

LOWE: Thank you, Mr. Sage, for reappearing today. So going along with those same thoughts, so at, say, the state fair, mom and dad come in with a van full of kids and both mom and dad decide to go into the casino, none of the children will be allowed into the casino for any reason at all?

TOM SAGE: The way I see the casino regulations is youth. Anybody over-- or under 21 would not be able to get on the gaming floor where there would be gaming devices. That answer?

LOWE: Yes.

TOM SAGE: Thank you.

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LOWE: Thank you.

BRIESE: Thank you, Senator Lowe. Any other questions? Seeing no other questions, thank you for being here.

TOM SAGE: Thank you.

BRIESE: Any other neutral testifiers? Seeing none. Senator Aguilar, would you like to close? And we do not have any letters for the record.

AGUILAR: Since it's getting late, I'd like to thank the testifiers and I'll waive closing.

BRIESE: OK, very good. Thank you. Seeing-- having no-- we have no letters regarding that bill, so we'll close the hearing on LB580. We'll open the hearing on-- excuse me, that was LB371. We'll open the hearing on LB536. Good afternoon again.

AGUILAR: Good afternoon, Senator Briese and members of the General Affairs Committee. My name is still Ray Aguilar, R-a-y A-g-u-i-l-a-r. I represent the 35th District of Hall County and I'm here this morning to introduce LB536. I was asked to carry LB536 on behalf of the Nebraska Thoroughbred Breeders Association. LB536 would amend the racetrack breeders' fund to require funds to be remitted to the state and remove the requirement that funds be spent at the racetrack where they were generated. The breed fund was designed in the '80s to require that a portion of the wagers bid on live horse races and simulcast horse races would be allocated to financial "incentives" that would encourage people to breed and race horses in Nebraska. This is accomplished using purse supplements and awards of Nebraska-bred horses. This fund came with the stipulation that the funds would be used at the racetrack where they were derived, but did not explicitly provide for the distribution of these-- the funds if they could not be fully utilized at the racetrack. Historically, the racetracks had a mutual understanding and agreement that provided for the distribution of these funds. At the time, they believed there was no statutory issue with doing this. Racetracks which ran more races could use other racetracks' fund to support the racers and the breeders. The breed fund was doing what it was designed to do: support agriculture, support the breeders, and support horse racing, horse racing. This remained true until 2017, when some of the racetracks holding fewer

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live races, but drawing in significant amounts of breed funds on simulcast wagers decided that these distributions were not congruent with statute and must stop. The breed funds they could not use due to the lack of races they squandered-- and still are-- to the tune of millions. This triggered a request for determination by the State Racing Commission as to who exactly was the rightful custodian of these funds. I trust that the commission will be able to explain that process in greater detail. The State Racing Commission decided to award custodianship of the funds to the Nebraska Thoroughbred Breeders Association, believing the breeders were the best custodian for assuring that the breed fund was allocated as intended, but nothing is simple. The law-- and lawsuit transpired contesting the ability of the commission to determine who the custodian should be. A district court found that the commission lacked the statutory authority to do so and vacated the decision. An appeal was filed with the Supreme Court and there was an issue with process serving, which resulted in the decision being vacated and the case thrown out. LB536 is in an effort to resolve the dispute and ensure that this fund, taken from wagers and designated for the support of agricultural breeding and horse racing, is put to its intended use. The original language was written in a time where horse racing was the primary draw of a racetrack facility. I don't think the Legislature in 1983 foresaw a world in which simulcasting makes up the lion's share of the revenue at a Nebraska racetrack. For additional context, the first time the Kentucky Derby was simulcast was 1984. And in 1982, the Ak-sar-ben racetrack had a record attendance of nearly 32,000 people. Small changes have been made since this to the bill, but none have made explicit and mechan-- the mechanisms needed to assure that these funds are benefiting agriculture and horse breeding. With recent events transpiring in the lawsuit questioning the commission's ability to make these funds flow correctly, the time has come to change this section of law to make it clear that the purpose of the breed fund is to support breeding. LB536 finds a solution that does not give any one interest group more sway than the other. It makes the State Racing, Racing Commission the custodian of the fund. This allows the commission to see the full sum of the breed fund and decide strategically how to distribute it, being able to bear in mind that the race is being held that year and the potential of smaller racetracks to grow. The racetracks will be able to come to the table and join the discussion on where funds should be allocated to understanding that under LB536, the way to use more of the breed fund

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is to run more races. It also compels all outstanding breed funds to be remitted to the State Racing Commission. Disputed funds are sizable. I'm unsure of the exact amount and not fulfilling their intended purposes sits dormant. We, we need to call these funds home and assure that the Racing Commission can get them flowing in a way that promotes breeding and horse racing. With the passage of the Racetrack Gaming Act, horse racing stands to climb in popularity and in the interest of letting horse racing, thrive-- thrive, using the tools the state has created for that purpose. We need to resolve this dispute, get the funds flowing, and let the horses run. Before I finish out, I need to point out that I have been in contact with the State Treasurer's Office and we are in talks to propose an amendment necessary to make the revenue implications of LB536 consistent with state law. We are currently waiting to hear back from the legal council on what needs to occur. With that, I urge you to-- urge that you move forward LB536 and I close my opening.

BRIESE: Thank you, Senator. Any questions?

AGUILAR: Questions?

BRIESE: Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman, and thank you. Senator Aguilar. I guess-- I don't know enough about this topic, so forgive me if I need to ask some of these-- sorry, this, this is a relatively new topic to me and so forgive me if I'm asking the wrong person, but this is a fund that's assessed at-- in my district, we-- or not in my district, in Omaha we have Horsemen's Park. So they would assess a, a fee on each wager at Horsemen's Park?

AGUILAR: Yeah, for Nebraska-bred horses.

J. CAVANAUGH: OK. And so-- yeah and so that goes into a fund that then would be paid out currently to horses-- Nebraska-bred horses that run at Horsemen's Park?

AGUILAR: Correct.

J. CAVANAUGH: OK and you're saying that they-- those funds are not currently being used appropriately?

AGUILAR: It's not currently being used, period. It's sit back--

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J. CAVANAUGH: OK, but--

AGUILAR: They're sitting on it basically.

J. CAVANAUGH: Does-- are there no Nebraska-bred horses being run at Horsemen's Park? Is-- I mean is it--

AGUILAR: I think they, they run one or two races a year, so--

J. CAVANAUGH: And they don't--

AGUILAR: --but they still could collect money from simulcast, keep in mind that.

J. CAVANAUGH: OK, that-- see, I don't know enough about-- so they're collecting money from every wager that's cast there, not just race-- in live, in-person races for this fund.

AGUILAR: I'm not sure of that, Senator.

J. CAVANAUGH: OK.

AGUILAR: I can get back to you with that answer.

J. CAVANAUGH: I-- my knowledge is low on this, so I apologize for some of these questions. So I, I am-- what you're trying-- the problem you're trying to solve is that this fund is intended to encourage breeding and running of horses raised and bred in Nebraska.

AGUILAR: It was created to advance the breeding of Nebraska-bred horses--

J. CAVANAUGH: -- by increasing--

AGUILAR: --and it's-- and--

J. CAVANAUGH: --the money that they could win at races.

AGUILAR: Right and it's not being used at all, to my knowledge, and it's being kept by the organization that has Omaha Expo and the Lincoln racetrack. I think that they're sitting on that.

J. CAVANAUGH: But at Fonner Park they are, but-- paying out to Nebraska-bred horses then?

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AGUILAR: They have and they have in the past. They want the ability that if they have a great year and an excess of funds, they want to be able to help Columbus or Hastings or any of the smaller tracks that may be struggling.

J. CAVANAUGH: But, but specifically to help those tracks or to help with these purses for Nebraska-bred horses?

AGUILAR: Yes.

J. CAVANAUGH: Which one is it? Sorry. What, what's-- or is it both? What would, what would this change do that would help Columbus and Hastings?

AGUILAR: It would allow them to receive funds.

J. CAVANAUGH: But how does it serve that intended purpose of advancing Nebraska-bred horses?

AGUILAR: Well, for one thing, they'd be able to increase the purse, which would allow-- they would be able to have more horses bred in Nebraska. That's the main purpose of it right there.

J. CAVANAUGH: OK and they only run Nebraska-bred horses at those tracks then?

AGUILAR: No--

J. CAVANAUGH: OK. Do they run most?

AGUILAR: --and there will be people who follow me, I think, that can explain that a lot better than I can.

J. CAVANAUGH: OK, that's-- that was-- yeah. I'll stop then. I might--

AGUILAR: Thank you.

BRIESE: Thank you, Senator Cavanaugh. Anyone else? Seeing no other questions, thank you for your opening. Proponent testimony in support of the bill, step right up. Good afternoon and welcome.

ZACH MADER: Thank you.

BRIESE: Go ahead.

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ZACH MADER: Senators, thank you for serving our state. I am Zach Mader, Z-a-c-h, last name, M-a-d-e-r. I'm the president of the Nebraska Thoroughbred Breeders Association. I am a fourth-generation farmer-rancher that lives just north of Grand Island, Nebraska. My family would be considered small breeders. Over the last 30 years, we've produced about 40 thoroughbred race horses. The Nebraska Thoroughbred Breeders Association is the official registrar of Nebraska thoroughbred horses. We register broodmares, stallions, and certify Nebraska-bred foals. Our office is in Grand Island at Fonner Park. We have a nine-member board that consists of breeders from across the state and we serve three terms and are, and are elected by our membership. We represent an industry that was once flourishing here in the state. Horse breeding was at the top of its game in the mid '80s. At one time, we would have had as many as 800 foals a year born. Today, we have less than 50. Horse breeders are permanent residents of Nebraska. Their operations, small or large, typically buy all of their hay, feed, tech, vet, and farrier services locally. Racetracks closing and running far less races has led to this decline. Out-of-date state statutes are hindering our breed program in the state. The industry and Legislature, 30 years ago, did not see the decline in race days and racetracks shuttering their doors. LB536 asks for the Nebraska Racing, Racing Commission to take control of these funds and take input from interested party-- parties, including those who represent breeders in the state of Nebraska. Presently, these funds are held at racetracks and not spent with our breeders' best interests. The Nebraska Racing Commission is unbiased and familiar with all aspects of racing and breeding. The Nebraska Racing Commission will be able to serve our breeders and racetracks with a fair and unbiased lens. We believe these funds should be able to move from track to track as necessary to promote breeding and agriculture. This has been done in the past with gentlemen's agreements that take into account the needs of our breeders. The majority of breeders' dollars are generated at racetracks in Omaha and Lincoln. Unfortunately, very few races are run in Omaha and Lincoln. Our breeders only garnish breeders' incentives and stallion incentives when their offspring compete in races at Nebraska racetracks. If we could use, if we could use the funds generated by simulcast wagering at any racetrack, we could provide far more opportunities for breeders and the breeding industry. Our goal is to equally distribute these funds strictly by numbers of, numbers of races run at a meet. We have 50-plus days of racing right now in Nebraska. Fonner Park and Columbus

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Expo and Racing run almost 92 percent of the live races, but generate only about 20 percent of our breeders' funds. It is most logical and reasonable to reward our breeders at these tracks that give far more opportunities.

BRIESE: I'm going to--

ZACH MADER: We acknowledge and are excited about the promises of more races being run in Omaha and Lincoln, but this may be years away and our breeders need help now. There has been in excess of \$1.3 million withheld from the breeders the last four years.

BRIESE: I'm going to have to shut you down there, but if you have a few wrap-up comments to wrap up with, that would be great.

ZACH MADER: No, I guess is there any questions? You put me on the spot.

BRIESE: No, I apologize for that.

ZACH MADER: That's all right. I needed to read faster.

BRIESE: Trying to be consistent with testifiers.

ZACH MADER: Yeah.

BRIESE: Go ahead, Senator Groene.

GROENE: Could you finish that last point you made? How much money is involved here?

ZACH MADER: \$1.3 million withheld from the breeders the last four years. Can I read two sentences to you-- the last two?

GROENE: No, if that's--

ZACH MADER: That's it.

GROENE: --probably the answer, yeah, go ahead.

ZACH MADER: That is-- that's going be--

GROENE: Two sentences is part of my answer. Yes, go ahead.

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ZACH MADER: Oh, OK. The money sits in two bank accounts and does not promote agriculture or horse breeding. We have breeders from Scottsbluff to Omaha. We certify Nebraska bred, not Omaha or Lincoln bred.

GROENE: How much-- but \$1.3 million is sitting there. How much is brought in every year?

ZACH MADER: Between those two racetracks, probably somewhere--

GROENE: Of all-- across the state.

ZACH MADER: Across the state, about \$600,000 or \$700,000.

GROENE: Is brought in a year?

ZACH MADER: Yes.

GROENE: And what does Omaha and Lincoln do with the money?

ZACH MADER: They, they-- Omaha does give some of the breeders' funds out that they generate. Unfortunately, they run very, very few races in Omaha so they cannot get rid of the full load, but they do use it mostly for purses, not necessarily totally for--

GROENE: So--

ZACH MADER: --breeders' awards.

GROENE: --to what Senator Cavanaugh said, it's-- goes to breeders who actually race at that track, not just a, a, a breeder in the area. You have to actually physically race at that track, your horses do.

ZACH MADER: Correct. The way it stands right now, yes.

GROENE: Thank you.

BRIESE: Thank you, Senator Groene. Senator Cavanaugh.

J. CAVANAUGH: Thank you and thanks for being here. So obviously you heard my questions before. I'm not particularly knowledgeable about horse racing to begin with. So first off, the, the-- this fee is assessed on every race-- wager that is placed at the, at the Nebraska race--

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ZACH MADER: That's correct.

J. CAVANAUGH: OK and that totals about, you said \$600,000 a year statewide?

ZACH MADER: That's correct.

J. CAVANAUGH: And the-- are there other uses-- you mentioned a breeders'--

ZACH MADER: Incentive.

J. CAVANAUGH: --incentive. How is that different than a, a purse for, for Nebraska-bred horses?

ZACH MADER: If you have a foal and it is running, strictly-- right now at Fonner Park, if-- there is a purse supplement, which you add to a purse of the race. Then the breeder of that foal or the mare owner and the stallion also get paid off of the purse structure of that race. It is essentially three pots: purse supplements and then the mare part of the deal and the stallion part of it.

J. CAVANAUGH: And so the, the purses-- I mean that part I kind of understand. If you win, you get the purse, correct?

ZACH MADER: That's correct.

J. CAVANAUGH: Is the purse only larger if you were a Nebraska-bred horse then or is there a separate purse for the, the highest finishing Nebraska-bred horse? How does that--

ZACH MADER: Typically most racetracks have the standard purse and then from this breed fund, fund, you add 10 percent, 20 percent, 30 percent on top of it. So your breed horses do run for more money and it comes out of this breed fund.

J. CAVANAUGH: OK, so just so I'm clear, say a horse-- horse A is a Nebraska-bred horse and it wins. It would get a larger-- it-- purse than horse B because it was bred in Kansas-- if horse B won.

ZACH MADER: That would be correct.

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J. CAVANAUGH: OK, I'm just trying to make sure we're-- I'm on-- I'm understanding the language and what we're talking about. And so by-- and for a-- previously, according to Senator Aguilar's statement, this was kind of a gentlemen's agreement where I, I guess-- I'm guessing Omaha and Lincoln were kicking in for the rest of the state.

ZACH MADER: That is correct.

J. CAVANAUGH: And at some point recently, they decided to stop doing that.

ZACH MADER: That is correct.

J. CAVANAUGH: When they were doing that, was all of the money being used every year?

ZACH MADER: The majority of it was. At our smaller racetracks, they zero out every year.

J. CAVANAUGH: And when they were doing that, that-- so essentially this, this bill would be to get back, to a statutory level, what that gentlemen's agreement was?

ZACH MADER: That is correct.

J. CAVANAUGH: And when they were doing that, what was the trajectory of the Nebraska breeding when, when-- if we were to go back to the-- you have, you have the evidence, right, of what it was--

ZACH MADER: Right.

J. CAVANAUGH: --where we--

ZACH MADER: We would be in similar times to where we are right now. The gradual decline has been happening for many years.

J. CAVANAUGH: So even the way it was under the gentleman's agreement, it was not having the intended effect that was stated when it was put into effect in 1982?

ZACH MADER: I don't know if I could say that purely by numbers, but I would say that's somewhat accurate.

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J. CAVANAUGH: OK, so-- sorry, if I can add one more--- that-- so the objective of the-- this bill is to get back to a previous status that was actually not addressing the problem.

ZACH MADER: Can you restate that, please?

J. CAVANAUGH: The objective of this legislation would, would put, put us in a state of affairs-- the, the law would be intending to solve the problem, but it was not solving that problem. So this bill would not solve the problem that's-- that we're trying to address.

ZACH MADER: Yes, I think this bill would address our issues that we have right now.

J. CAVANAUGH: It, it would address-- to get back to the gentlemen's agreement--

ZACH MADER: Yes.

J. CAVANAUGH: -- but it would not-- it-- effectively increase the breeding population or, or the industry in Nebraska.

ZACH MADER: I think, I think that-- I, I-- contrary to belief, I believe that we, we would make--

J. CAVANAUGH: I don't have--

ZACH MADER: Yeah, OK, I don't mean that the wrong way. I, I do believe we are starting to see, especially with the casino gaming act, a pick-up of interest in this. Things should get better in the state of Nebraska naturally, but as I got later down this list, I think this is a stopgap till we get to that point in time--

J. CAVANAUGH: OK, thank you.

ZACH MADER: --to fund.

BRIESE: Thank you, Senator Cavanaugh. Senator Groene.

GROENE: Thank you. So can that money carry over?

ZACH MADER: It can.

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GROENE: So it would be-- assumption Lincoln and Omaha are-- assuming
with a casino, they'll have more racing. They can stock their-- that
money up and then attract more breeders to race there because they
have a bigger pot of money to distribute to a bleeder's-- breeders
into the future with--

ZACH MADER: I would guess that is correct.

GROENE: All right, so that makes it even-- Fonner Park and Hastings
even at a greater disadvantage to attract--

ZACH MADER: That is correct.

GROENE: --breeders to race in Hastings and Grand Island--

ZACH MADER: Yes, sir.

GROENE: --so maybe they're sitting on it for the future.

ZACH MADER: Yes.

GROENE: Why do you believe there's going to be more racing? People
aren't going to go there to bet on horses. They're going to go to a
casino.

ZACH MADER: There is-- and I am not a-- I'm not here to advocate for a
casino or any of the above, but where you see this type of environment
in other states, the breeding industries get very strong.

GROENE: There's more races, physical races, races--

ZACH MADER: More physical races, more dollars that are generated for
racing from the casino revenue.

GROENE: Thank you.

BRIESE: Thank you, Senator Groene. Anyone else? Seeing no other
questions, thank you for your testimony.

ZACH MADER: Thank you.

BRIESE: Next proponent. Good afternoon and welcome.

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KEVIN HULSE: Good afternoon. Thank you. My name is Kevin Hulse, K-e-v-i-n, last name, H-u-l-s-e. I'm here to testify in favor of LB536. I'm here representing Mid Nebraska Feeds and TK Stables. I own them both. They both were a Grand Island-based business. I purchased Mid Nebraska Feeds, which is-- it's an exclusive Purina dealer, in 2010 from a gentleman that was wanting to retire and he had owned it for over 30 years. When I purchased the store, it had no employees. He was the only worker and it grossed about \$500,000 a year. As of today, I have full four-time [SIC] employees and I gross over \$2 million a year. In our nine-- in our 90-mile radius, we have about 60 percent of the, the cattle business or the market share of the cattle business and we have about 80 percent of the horse business, so we're pretty much maxed out. I, I push them to get 85, but they're just not there, so, so-- we also try to carry all the equipment and most of-- and believe it or not, most of our stuff is Nebraska made, so I'm very happy with that. We get a lot of the equipment. Our feed is sometimes manufactured in St. Joe because of the cross-contamination with cattle, so they just have their own plant, but they do ship it to the Purina plant here in Lincoln. So we do that. We use local trucks. We do whatever we can. So I believe this bill would allow the breeders to increase their program, which, which would increase the equine population, which in return would allow Mid Nebraska Feeds the opportunity to grow due to the population alone. That, that growth would strictly result in jobs because the four employees I got, they're maxed. So we, we pick up some more, you know, business. We're, we're going to need it. We pay roughly around-- over \$100,000 in sales tax with it. Horse feed is taxed, cattle feed is not, so you guys will like me selling more horse feed. And we, we basically use all the possible resources we can in the state and keep the money in the state. And then that leads me into the TK Stables part. I started that back in 2009. I done a seven-figure investment in a quarter section and, and built a 36-stall barn and in that barn, I had four foaling stalls that's-- the mares can have foals in. And at that time, I had four broodmares and I had 11 race horses and I used all local construction to build it. I'm a local contractor also, so I, I believe in that stuff. Well, as, as time went on there, in 2012, I decided that the program just wasn't for TK Stables to grow. It just, it just wasn't going to be there, so I actually moved the whole operation, including my youngest daughter, to Kentucky and I bought a 120-acre farm there.

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BRIESE: I'm going to ask you-- shut, shut you down now there if you
can wrap up and free comments.

KEVIN HULSE: OK, so anyway, it's grown to 14 broodmares and, and
that's truly the happy balance point. It's paying me the
"incentitive"-- not the purse fund so much-- the "incentitive" that
when my horse wins-- because you could own my horse and if it wins, I
get paid. That's the "incentitive" for me to bring a broodmare home
and, and take care of her for a year to get the foal. That's the whole
"incentitive" of it, so it's a happy balance. You know, I, I do know
the purse money helps us race. I love purse money, but I, I will not
bring mares back for purse money. I got to have breeders' awards to
bring the money because the mare is going to be here a year, you know.

BRIESE: OK, very good, very good. Thank you. Any questions? Senator
Lowe.

LOWE: With-- thank you, Mr. Hulse--

KEVIN HULSE: Um-hum.

LOWE: --for being here and thank you for using Nebraska people and,
and everything that we have. Will you bring some of your foals back or
your broodmares back if this is implemented?

KEVIN HULSE: Absolutely and I'll, I'll explain it. I sell about a half
a million to three-quarters of a million worth of yearlings a year in
Kentucky, but I do have mares that-- what I classify as a "regional
broodmares," which they're-- they don't make the cut and, and I really
have no home to take them to. So I've been moving some of them
broodmares out, which-- they will make awful good broodmares here.
And, and now will I come back here and build-- spend seven figures
building another barn? I don't know. We'll have to wait years and see
if it does develop and if it sustains its, its ability. But, but what
I will do is I've already set up two farms and I'm going to split and
I'm going to send two broodmares to him and two broodmares to him. So
I'm going to be paying him \$20 a day every day and, and he's going to
foal them out. So they'll be here, at least the way the statute reads,
they'll be here at least 90 days before they foal, which I'll bring
them here sooner than that. And then as of right now, probably what
I'll do is after they're 90 days old, the foals, then I will take them
back to Kentucky till they grow up to be yearlings and then I'll bring

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them back again. But where-- if we can make this viable, I'd build a
farm and I'd just leave them here, you know--

BRIESE: Very good.

LOWE: Thank you.

KEVIN HULSE: OK.

BRIESE: Thank you, Senator Lowe. Anyone else? Seeing no other
questions, thank you for testifying.

KEVIN HULSE: OK, thank you.

BRIESE: Next proponent testifier.

ROGER PELSTER: Hello.

BRIESE: Good afternoon and welcome.

ROGER PELSTER: My name is Roger Pelster, R-o-g-e-r, Pelster,
P-e-l-s-t-e-r. I'm speaking to you as a breeder. I've been in the
breeding business for about 45 years. In 1976, Jack Feckler
[PHONETIC], he was a stage steward at the Nebraska racetracks at the
time, we went to Mead, Nebraska, and we purchased 47 acres to be used
to breed, board, and raise thoroughbred horses. At that time, my farm
was to be considered a small farm and there were half a dozen big
farms in the Omaha area. With, with the demise of Ak-sar-ben and when
the dust settled, all the big farms closed up. That made me to be one
of the big farms still doing business. I've stood countless stallions
through the years in the business and when our purse structure was
better, I used to foal out an average of 25 mares a year each spring.
With losing racing days and two racetracks, that number has dwindled
down to an average of five mares each spring. When times were better,
people from Iowa would bring their mares over here to foal out and
they could get themselves a Nebraska bred. Now it's the other way
around, where mares I am boarding go over to Iowa and Minnesota to
foal out. I figure I spend an average of \$3,000 to \$4,000 per mare
just to foal her out in, in Iowa or Minnesota on vet, boarding, and
foaling fees and, and that money all goes outstate. We haven't, we
haven't taken care of our breeders. Nebraska has a good breeders'
award system, or as I call it, a breeders' incentive, where the
breeder is the owner of a foal when born, gets 12 percent of first,

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second, or third when that horse race is here in Nebraska. However, our purse structure is small and we haven't kept up with our neighboring states. We need to take better care of our breeders. Keep them here. We are sending too many mares outstate each year, which results in thousands of dollars that would have been spent here on labor, feed, and vet expense, etcetera. There have been quite a few changes financially in the 45 years I've been in the horse business. Our purse structure has not changed with them, that being the breeders' fund and breeders' incentive. I'm done.

BRIESE: Thank you for that. Any questions? Senator Groene.

GROENE: Simple, but could you clarify-- the horse has to be born-- a native of Nebraska in order to get the breeders'--

ROGER PELSTER: Right.

GROENE: --share of the purse?

ROGER PELSTER: Yes--

GROENE: So--

ROGER PELSTER: --it has been born in-- I mean, you can breed your mare in Kentucky and bring her back here and you have to be here 90 days prior to her foaling and then when it's born here, it is a Nebraska bred.

GROENE: So the reason you go to Minnesota, they have the same statutes and they have better fees and better-- more races--

ROGER PELSTER: To get yourself a Minnesota bred--

GROENE: Right.

ROGER PELSTER: --or go over to Iowa to get an Iowa bred, which I have done. When things have gone-- when things went to hell around here, which means, you know, we lost-- the purses went down and everything, then I started foaling in Iowa and Minnesota and--

GROENE: Did you ever bring those horses back here to race?

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ROGER PELSTER: In-- well, you-- then you're into their breed program and you'll probably end up racing there. But in order to get yourself a Minnesota bred, you have to be there by March 15, that's it. You can go in the-- and then it's born there and then you spend a couple of weeks there and you come back here and you have yourself a Minnesota bred.

GROENE: So that's the purse side, but on this money here, how would it be distributed if-- you have to be-- colt has to be born here also.

ROGER PELSTER: Right.

GROENE: And how would it be distributed? By also who wins the race or by--

ROGER PELSTER: Yeah, if that foal wins here in Nebraska, you get 12 percent.

GROENE: But that's on the purse, but this money here we're talking about doesn't fund that purse-- the entry fee is from the purse fund.

ROGER PELSTER: Well, your, your breeders' fund in-- is-- you know, adds to your purses.

GROENE: Oh, it does.

ROGER PELSTER: Yeah.

GROENE: And that's this money here?

ROGER PELSTER: Right.

GROENE: But that money here now stays at the racetrack.

ROGER PELSTER: Right.

GROENE: All right and you want to spread it out across the state?

ROGER PELSTER: Right.

GROENE: All right, that makes sense. Thank you.

BRIESE: Thank you, Senator Groene. Anyone else? Senator Brandt.

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BRANDT: Thank you, Chairman Briese, and I apologize for getting here late. Maybe Senator Aguilar or somebody stated this fact. What percentage of the, of the horses that race in Nebraska today are Nebraska bred? Just, just a guesstimate.

ROGER PELSTER: 20 percent.

BRANDT: So we're, we're not doing-- it's not as dire as what I--

ROGER PELSTER: That's just a guess.

BRANDT: Yeah, it's, it's a guess. All right. Thank you.

ROGER PELSTER: --Fonner Park.

BRIESE: Thank you, Senator Brandt. Anyone else?

GROENE: One last question.

BRIESE: Yeah.

GROENE: How many total races are raced in Nebraska a year, do you-- would you say, at all the parks? How many purses are paid? Just an estimate.

ROGER PELSTER: How many--

GROENE: --total purses are paid in a year? I mean all the total races at Fonner Park, actual races, how many are, are raced? You got an idea?

ROGER PELSTER: I could use a little help on that.

GROENE: [INAUDIBLE].

_____ : It's going to be about 500.

GROENE: All right, thank you.

BRIESE: Thank you, Senator Groene.

WAYNE: Can you repeat that on the mike because [INAUDIBLE] from somebody for the record. What, what is--

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GROENE: Just repeat, just repeat that question-- answer. Was it 500,
is that correct?

ROGER PELSTER: Yeah, right.

GROENE: 500 races--

ROGER PELSTER: Yeah.

GROENE: --in the state of Nebraska. Thank you.

BRIESE: Any other questions? Senator Cavanaugh.

J. CAVANAUGH: And I-- again, I'm still trying to figure this all out.
So the whole purpose is to increase the purses and these breeder
incentives. That will basically give people more financial reason to
breed in Nebraska.

ROGER PELSTER: Yeah, with the, with the casino bill passing, that--
there were 30, 40 mares purchased in Kentucky at their November sale,
brought back here to foal here in Nebraska.

J. CAVANAUGH: And that's-- but that's not in anticipation of this law.
This is-- that's in anticipation of increasing interest in the state
as a result of the casinos.

ROGER PELSTER: Yeah.

J. CAVANAUGH: OK. So that-- I guess that kind of brings me to my
second question. Why would-- I mean in my mind, and I apologize if I'm
wrong, but this looks like it's taking money away from Omaha and
Lincoln racetracks. Is there a reason why taking money away from those
racetracks and not allowing them to put it in purse incentives at
their racetracks would not serve the same purpose?

ROGER PELSTER: I mean the idea is to keep our purse structure up.

J. CAVANAUGH: You might have to elaborate for me, I apologize.

ROGER PELSTER: I can't understand you.

J. CAVANAUGH: You, you-- I think you have to elaborate on what that
means to keep our purse structure up.

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ROGER PELSTER: Well, I mean, our breeders' fund, you know, applies to
your purses--

J. CAVANAUGH: OK.

ROGER PELSTER: --which increases--

J. CAVANAUGH: OK.

ROGER PELSTER: --that will bring your purse structure up.

J. CAVANAUGH: But that will-- so spread-- spending this money around
the state will increase the purses at these other racetracks, right?

ROGER PELSTER: Right.

J. CAVANAUGH: My question is if the idea is just to create a financial
incentive for people to breed Nebraska horses, why does just having
the increased purses at Omaha or Lincoln not solve that problem?

ROGER PELSTER: It will, though.

J. CAVANAUGH: OK.

ROGER PELSTER: Yeah.

J. CAVANAUGH: All right, thank you.

ROGER PELSTER: Thanks.

BRIESE: According to the previous testifier-- one of the earlier
testifiers though, 92 percent of all live races occur in Grand Island
and Columbus, correct? Did you hear that?

ROGER PELSTER: Right.

BRIESE: Yeah, OK, so very few races are conducted in Lincoln and Omaha
live--

ROGER PELSTER: Right.

BRIESE: --as I understand. OK, thank you. Seeing no other questions,
thanks for your testimony. Next proponent testifier. Seeing none, any
opposition testimony? Good afternoon and welcome.

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ROBERT MOSER: Thank you, Chairman Briese, committee members. My name is Robert Moser, R-o-b-e-r-t, Moser, M-o-s-e-r. I am a small business owner from Nebraska City and have been involved in the racing industry as an owner and breeder virtually my entire life. My dad was involved in it before I was born. This passion has led to service on multiple governing boards in the industry, including the Nebraska Thoroughbred Breeders Association, the Nebraska Horsemen's Benevolent and Protective Association, and the role I'm speaking from today as president of Omaha Exposition and Racing, which manages racetracks in Omaha and Lincoln. I wish to voice my opposition to LB536 because it is bad for racing, ripe for corruption, and constitutes bad business policy. To be clear, as a former director and current member of the breeders, I fully support the breed program in this state and the three specific goals of the Nebraska Thoroughbred Breeders' development fund. However, I believe this is bad for the breed program as it intentionally diverts funds away from these three specific goals. Sections 2-1207.01 and 2-1207.07 were purposely written to ensure that funds appropriated to the breed fund were entirely spent to support agriculture and the horse breeding industry through Nebraska-bred purse supplements, breeders' awards, and stallion awards. As currently written, the law accomplishes this and has for 40 years. This proposed legislation threatens the efficiency, security, and integrity with which these funds are disbursed. First, this bill is bad for horse racing because it removes the requirement that the money be spent at the track at which it was earned. The shuffling of money between bad tracks is bad policy because it discourages racing at the tracks that earn the money. The industry believes that we need to encourage racing at the tracks that earn this money and these sections were originally written and intended to do exactly that. Secondly, this bill eliminates the mandate that the breed fund be spent on breeders' awards, stallion awards, and Nebraska-bred purse supplements. It merely states that the commission would solicit input from in-- interested persons. This is entirely too vague and ripe for corruption. It fails to define interested persons that we would solicit for this information. We need to find ways to increase funds that support these goals, not spread the sparse funds even thinner. Finally, the most efficient, cost-effective method of dispersing these funds is the method which has been working for 40 years. This bill adds a layer of bureaucracy and costs to the distribution of these funds and stresses the already short breeders' fund. I see no purpose for the change, as it would only lead to the cost of dispersing the

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funds. In speaking with the author of this bill, I tried to relay that the problem with the breed fund is not with how the funds are distributed. The problem is simply that there isn't enough money in the fund. I offered to help resolve this issue by adding 1 percent of the export handle to the fund, which currently does not receive anything from export handle. By rejecting this offer, I believe, I believe the authors of this bill aren't interested in solving problems nearly as much as they are spending money destined for the breeders' program elsewhere.

BRIESE: I'm going to have to cut you off--

ROBERT MOSER: Thank you, absolutely.

BRIESE: --perfectly-- OK, thank you. Thank you for your testimony. Any questions? Senator Groene.

GROENE: Thank you, Chairman. I'm, I'm concerned. If 92 percent of the races are in Grand Island and Hastings, how does spending--

ROBERT MOSER: Grand Island and Columbus.

GROENE: Columbus, all right, excuse me. How does the money in Omaha and Lincoln help breed-- the breeders in the state of Nebraska?

ROBERT MOSER: That's in the past. That is historical information that is no longer applicable. As president of Omaha Exposition and Racing, I am committed to increasing the number of racing days in Omaha and Lincoln. I want to see 150 to 200 race days in our biggest cities and we need that money to support the breeders' fund there. I am committed to making the breed program successful in that every single year, I find other funds to supplement the breed funds because they're inadequate. It's based on an archaic formula that doesn't account for the fact that the majority of our income now comes from--

GROENE: Thank you, but--

ROBERT MOSER: --simulcast.

GROENE: But simulcast-- why don't we make an amendment and we take all simulcast money and split it equally across to every race purse across the state? And then if you have the races that are held locally, you get to keep that. Would that be fair?

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ROBERT MOSER: Yeah, if, if you had-- your simulcast funds, I believe they should support the track that they were earned in.

GROENE: So the air conditioning in the building where the people sit and make a simulcast, the money should stay there and it shouldn't be for actual-- the breeders across the state?

ROBERT MOSER: Oh, no, you, you take that money and, you know, percentage of that money should be put into the breed fund, absolutely. I believe we need to-- but the breed fund has three specific purposes: to increase the amount of the breeders' supplements, which is the amount of money that a Nebraska-bred horse runs for, in excess of what any other horse is running for. Secondly, to reward the breeder of the horse, which is the owner of the mare at the time the horse was bought-- born, and stallion awards, which rewards the owner of the stallion that conceived a Nebraska-bred horse.

GROENE: OK, thank you.

BRIESE: Thank you, Senator Groene. Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. Thank you, Mr. Moser. So I only have two questions. One, if those parents-- they don't have to be Nebraska-based horses?

ROBERT MOSER: You know, they did not have to be Neb-- you know, previous generations did not have to be Nebraska bred. There are two classifications of Nebraska-bred horses: Class A, which means that the stallion stands in Nebraska at the time the horse was conceived, and Class B, which is the mare was registered by the breed registrar, stood in Nebraska when the horse was foaled, and the resulting foal was registered a Nebraska bred. So if it has a Nebraska-based stallion, it's a Class A and runs for additional money. If it's a Class B, the breeders' awards aren't as lucrative.

J. CAVANAUGH: OK and, and that is the current state?

ROBERT MOSER: Correct.

J. CAVANAUGH: OK, so I heard you say something that was kind of surprising to me about that this change would not direct this money to these breeder incentives necessarily.

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ROBERT MOSER: Correct. As the law is currently written, those three purposes are the only way that the breeders' funds can be spent. This law allows for advertising materials. It allows for administrative fees. When the tracks distribute the money, they already have a bookkeeper that distributes the money. They're not out-- you know, breeders' fees should come out of-- or advertising fees should come out of registration fees, membership dues, those kinds of things. I don't want funds that are destined for the breed fund to be spent on anything other than the three stated purposes of the breeders' fund.

J. CAVANAUGH: Well, I would say generally I'm with you on that and basically because of-- my entire base acknowledges the testimony I've hear-- here today and every single person came in and said that the way to incentivize breeding is these breeding funds. So if we're taking the money and spending it on something else, how is that going to incentivize the breeder?

ROBERT MOSER: It's not. It's going to detract from that.

J. CAVANAUGH: OK.

ROBERT MOSER: And to get back to that point, I believe that the way to increase breeding in the state is to increase the overall purse structure and increase the number of days that we run in Nebraska. I love this industry. I want to see it succeed. I helped write the casino legislation to, to help generate-- to help the horse industry. I helped circulate those petitions. I have, you know, campaigned for it and worked to see it through and I am committed to using our good fortune in getting it passed to increase the number of racing days, increase the purse structure, and that alone will-- as you can see, the previous testimony said that, you know, 40 mares bought at one sale. You know, last year we had 40 mares foal in Nebraska. This year we'll probably have 140. In the next couple of years, maybe we can get back up to 500 or 800, which would be a wonderful thing for the agriculture industry in the state.

J. CAVANAUGH: Thank you.

LOWE: Are there any other questions? Senator Wayne.

WAYNE: [INAUDIBLE]. How does, how does one get a horse track?

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ROBERT MOSER: Fill out an application. The state law says that you have to be a nonprofit organization. You fill out the application, you go to the Racing Commission, and they make sure that you have the minimum safety standards, the barn capacity, everything necessary to run a race meet. You get a live race-- live meet contract with the Nebraska Horsemen's Benevolent and Protective Association.

WAYNE: Who is that?

ROBERT MOSER: The Nebraska Horsemen's Benevolent and Protective Association is the organization that represents the majority of owners and trainers in the state.

WAYNE: So why do I have to go to them to get, to get approval?

ROBERT MOSER: It's that way in virtually every state. They have the horsemen's best interests in mind and if, if-- you think of it as almost a labor union for the racetracks.

WAYNE: So--

ROBERT MOSER: They're the ones providing the horses.

WAYNE: And what was that organization called?

ROBERT MOSER: Nebraska Horsemen's Benevolent and Protective Association,--

WAYNE: And how is that--

ROBERT MOSER: --HBPA for short.

WAYNE: H--

ROBERT MOSER: --BPA.

WAYNE: And how was that organization established?

ROBERT MOSER: They have-- they were established in the mid '60s. They have elections every four years and you-- anyone, anyone who is a member and has a minimum number of starts in the state can run for that board. There's currently five owners, five trainers, and a president on that board.

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WAYNE: But you can't run unless you have a contract with them?

ROBERT MOSER: The, the track itself cannot run horse races unless you have a contract with the organization representing the majority of owners and trainers in the state, correct.

WAYNE: So if they wanted to keep people out of the industry, they could just by not giving them a contract because then you can never run, then you can never run a race, right?

ROBERT MOSER: You know, if they had a reason for-- did not-- the state statute-- or rules and regulations of the Nebraska Racing Commission set out reasons why you can and cannot deny-- why you could deny contracts. Legitimate reasons for denying a contract would be oversaturation of the market, you believe someone doesn't have the financials to support a purse structure, you don't believe they have a safe racing surface. You have to go through the rules and regulations of the Racing Commission. They-- but they basically state whether or not someone should be getting a contract or not.

WAYNE: Do they take state money?

ROBERT MOSER: No.

WAYNE: So everything is ran through the industry itself?

ROBERT MOSER: Correct, even the Racing Commission is not funded by state money. They are funded by a portion of the pari-mutuel handle.

WAYNE: So then who grants the actual track license?

ROBERT MOSER: The Nebraska State Racing Commission.

WAYNE: And what, what requirements do they have on a license if you signed a contract with the NHBPA? Is there any other-- is there insurance requirements?

ROBERT MOSER: I'm, I'm not 100 percent sure of that. I did see the executive director of the commission is in the room, so he might be able to answer that question better than I can.

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WAYNE: They're probably testifying on Senator Briese's bill later. I'm just trying to get an understanding of the framework of, of how these get started and how they operate. Thank you. I appreciate it.

ROBERT MOSER: Certainly.

GROENE: What, what is the difference between the benevolent society and the State Racing Commission?

ROBERT MOSER: State Racing Commission is the commission that oversees the racing industry and makes sure that everything is ran according to state law--

GROENE: Are there-- are they appointed--

ROBERT MOSER: --where--

GROENE: --by the Governor, the members?

ROBERT MOSER: Yes, members-- it's a five-member board appointed by the Governor, whereas the Nebraska HBPA-- it's best thought of as a labor union. They represent the owners and trainers that supply the horses to run the tracks.

GROENE: So a lot of the members of the State Racing Commission are probably the same people that are--

ROBERT MOSER: No, absolutely not. You know, a lot of, a lot of law-- young lawyers like to be on commissions and so they apply to be on the commission. They may or may not have any contact with the racing industry, whereas in order to be a member of the HBPA, you have to run horses either as an owner or a trainer.

GROENE: So we couldn't just turn the money over to the benevolent society to decide what to do with it because they would know better how to split it up amongst all the bleed-- breeders, but that probably wouldn't be legal. I mean--

ROBERT MOSER: You know, you could if you wanted to. I would not recommend that simply because I believe the best way to do it is as the law is currently written.

GROENE: Thank you, sir.

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ROBERT MOSER: I believe that would be the most efficient way. Thank
you.

BRIESE: Thank you, Senator Groene. Senator Lowe.

LOWE: Thank you, Chairman, and thank you, Mr. Moser.

ROBERT MOSER: Certainly.

LOWE: So the HBPA, does it represent quarter horses too--

ROBERT MOSER: No, sir.

LOWE: --or just the--

ROBERT MOSER: The quarter horses have a separate organization and that
is ran by Mr. Brian Becker.

LOWE: OK, but it's very similar to the HBPA?

ROBERT MOSER: Very similar; they represent the owners and breeders of
quarter horses in the state. The Nebraska HBPA represents the owners
and breeders of thoroughbreds in the state.

LOWE: OK, thank you.

BRIESE: Thank you, Senator Lowe. Anyone else? Senator Wayne.

WAYNE: So could I open a track if I just ran quarter horses?

ROBERT MOSER: Absolutely. Fairplay Park in Hastings is a little
quarter horse track.

WAYNE: And they don't have a contract with the HPBA [SIC]?

ROBERT MOSER: No, they would have to have a contract with the quarter
horse association.

WAYNE: So the only way I can get license for a track in Nebraska is to
have a contract with one of these two indiv-- agencies?

ROBERT MOSER: Correct.

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WAYNE: Do you think that might be part of the problem with the, with the industry is that we only have two essential people running it?

ROBERT MOSER: No, sir. The problem is not a lack of racetracks. The problem for the last 40 years has been the lack of purse money. And because the race-- because the casino industry is going to have to be located at a racetrack, the HBPA owns two racetracks in the state. They can charge rent or lease money to the casino operator to increase and use those revenues to increase the purse money.

WAYNE: So how is that not an inherent conflict if the only way I can get in is by the association-- to have a contract, but the owners-- but essentially the, the people who need to provide me-- the, the labor unions, per se, actually own the industry. How is that not a conflict? Is, is that not the reason there's a lack of competition and purse strings? It's-- the only way I can get in is through, as you put it, a union of the industry and they're the two owners of-- like, how is that not a-- I'm not-- I'm just confused how that's not a conflict.

ROBERT MOSER: Well, yeah, that's the way it is in every single jurisdiction I've ever raced in. I, I guess I don't understand why it was set up that way initially, but every single jurisdiction I've ever raced in has been that way.

WAYNE: And I'll tell you my issue-- and the committee might be, like, what is Just-- Senator Wayne talking about-- is we're about to embark on a whole new industry. And if you look at my bills, even from marijuana legislation to hemp reg-- legislation, there's an equity piece that I keep trying to put into all my legislation to where it's an open playing field. And right now, it doesn't seem-- what I'm hearing in testimony, that the whole industry is an open playing field. And if we're going to introduce a \$2 million or \$3 million industry into Nebraska, it should be open to everybody.

ROBERT MOSER: Well, the, the casino operation, end of it, is open to everybody. You know, you could solicit bids if, you know, if-- say, you are casino operator A. You could approach the racetracks and bid for their right to, to run the casino at their facility. There's a couple of racetracks in the state right now that are still in the bidding process.

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WAYNE: And I appreciate that, but let's take Omaha, right? And Omaha is one of the organizations-- one of the racetracks that are owned by the--

ROBERT MOSER: HBPA.

WAYNE: OK. So if somebody wants to open up a casino, they have to have a horse track, but they have to go to their competitor to even open it--

ROBERT MOSER: Well, depending on--

WAYNE: --because you have to have a, you have to have a contract with the organization to even open it. This, this seems like a closed industry and this is getting very interesting to me, from a, a legal standpoint, that if I have a person who wants to open in Omaha, I have to go to my competitor to get a blessing to be a part of an industry that the voters approved. That's weird to me.

ROBERT MOSER: Well, I, I guess you would have to go-- you know, first of all, there's multiple industries you could go through. You know, if you wanted to open a quarter horse track, you'd go through the quarter horse association. You know, there are other breeds of horses that race and going through those associations, you could open a track.

WAYNE: OK, thank you.

ROBERT MOSER: Certainly.

BRIESE: Thank you, Senator Wayne. Anyone else? Senator Lowe.

LOWE: I'm sorry once again. So let's say I, I get licensed through the Nebraska Racing Commission--

ROBERT MOSER: Yes, sir.

LOWE: --and I decide not to either go through the quarter horse organization or the HBPA and I decide to hold a race and some cow-- a bunch of cowboys show up with their quarter horses and we hold a race. Is that legal?

ROBERT MOSER: No. You know, I assume that if you're just sitting there and watching the horses race for pride, that's legal. Mr. Sage would

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probably be a better person to answer that. I'm sure if anyone slaps a
\$20 on the table and starts to wager on them, then you're going to
have a problem because you're not a licensed facility.

LOWE: But aren't we licensed through the Racing Commission?

ROBERT MOSER: Absolutely.

LOWE: So we've got the license, but we're not licensed?

ROBERT MOSER: Oh, oh, OK, I, I guess-- yeah, if, if the license-- that
will be a question for Mr. Sage. I'm not that familiar with that legal
aspect.

LOWE: All right, thank you.

ROBERT MOSER: Certainly.

BRIESE: Thank you, Senator Lowe. Anyone else? Seeing no other
questions, thank you for your testimony.

ROBERT MOSER: Thank you, Senator.

BRIESE: Next opponent testifier. Good afternoon and welcome.

CHAD MCKAY: Good afternoon. Thank you, Chairman Briese, committee
members. I'm here to testify as a Nebraska horse owner, third-gen--
third-generation horseman. I consider my hometown Columbus. I'm from
Osceola, grew up in--

BRIESE: Go ahead and state and spell your name.

CHAD MCKAY: Oh, Chad McKay, C-h-a-d M-c-K-a-y.

BRIESE: Thank you.

CHAD MCKAY: Certainly, so over the last 20-some years of my life-- and
my dad made a living at the racetrack, his-- training horses-- I've
owned lots of Nebraska breds. I would say I'm one of the top Nebraska
bred owners over the last few years. I didn't pick up stakes and leave
when it got tough here. I've won races in every racetrack here in
Nebraska, from South Sioux City to Omaha to Lincoln, Grand Island.
I've raced in other states, so very experienced. I'm very passionate
about this. You know, this was my livelihood and even when times got

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tough, I, I just doubled down and I helped the industry more as I could. So currently, I have three Nebraska breds with three different trainers and I have-- well, I got five horses with three different trainers and three of them are Nebraska breds. Mr. Pelster that testified earlier, his wife gets some of the breeding fees when my horse [INAUDIBLE] wins. Some of the things that were left out is every race day in Nebraska, you have to run one Nebraska bred race. That's just not a supplement of the purse. That is a whole Nebraska bred race where it's set for Nebraska breds. So that-- to me, that is one of the biggest drivers for money and for the breeding industry. And I guess my point is we need more Nebraska breds. And without Nebraska breds, legally, we can't run race days and more race days means more Nebraska bred races and it's-- tracks are set to a certain amount of days where they can run. So Grand Island runs their days and they can't run any more than they-- they could, you know, petition to run more, but they just have other things going on in their community where it doesn't work, where they can expand the race days. So those race days got to come from Lincoln and Omaha and Columbus. And as an HBPA member also, we've supported horse racing in those towns, so it's not just breeders' fees. The HBPA has generated some income in Omaha and Lincoln and that has gone to those tracks, not through the breeders' funds, but just because we were trying to help the industry and keep us afloat. So I guess I'm just here to speak for that this bill is bad for us all the way around. I'm in the process now of buying land and getting into the breeding business. I went-- like they mentioned, I went down to Kentucky and bought them for-- broodmare and brought her back here because we haven't bred enough Nebraska breds. That's going to be one of our biggest issues going forward is having more Nebraska breds here to get the race days--

BRIESE: OK.

CHAD MCKAY: --so--

BRIESE: Thank you, thank you for your testimony.

CHAD MCKAY: OK.

BRIESE: Any questions?

BREWER: Just--

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BRIESE: Senator Brewer.

BREWER: --just a quick one. Thank you, Mr. Chairman. All right, you talked about the, the good times and the bad. I'm assuming we're in the bad now.

CHAD MCKAY: Yes.

BREWER: The good times would have been when and why did we end up here from when it was a good time? Obviously Ak-sar-ben, I'm assuming, is a part of that, but what, what is the truth there?

CHAD MCKAY: The truth? So this is a long road. This is a lot of history. It took us a lot of years to get here. And my, my first argument would be we didn't roll with technology quick enough. Ak-sar-ben was the big dog. Nobody else around us had any gambling. There was no racing in Iowa. There was no racing in Minnesota. There was no racing in Oklahoma. If you wanted to gamble, you went to Omaha to gamble. They brought up busses from Kansas City and Des Moines and they filled it and we, we were the fat cats. And now this-- back when I was young, I was very young when I worked at Omaha, back probably in '94 or so, but I remember they, they were the big, fat cats and, you know, keno come in and we didn't-- we fought the simulcast bills, you know. When the bill was first passed for keno, that was supposed to support horsemen and next thing I know, something gets changed up in here and it doesn't support the horsemen. So now we have keno parlors all over the state of Nebraska where the horsemen, it's not supporting our industry. So once again, the horsemen have backed the casino bill and got it passed and now there's going to try to be bills up here changing it to take the money away from the horsemen.

BREWER: All right, thank you.

BRIESE: Thank you, Senator Brewer. Anyone else? Senator Groene.

GROENE: Thank you, Senator. What I understood was when Ak-sar-ben went under-- when you said racing in Minnesota, I thought it was because the casinos opened all around us and the gambling dollars diverted from horse racing to the casinos.

CHAD MCKAY: No, the, the racetracks came first. The, the pari-mutuels opened up and the racetrack over there ran long before the casino was there.

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GROENE: So people from Omaha and the buses went from Kansas City to,
to Minnesota instead?

CHAD MCKAY: No, they just didn't come. Then, then the advent of
simulcast where you, you could bet on Kentucky races and stuff, you
know, they, they didn't have to--

GROENE: I--

CHAD MCKAY: --travel then.

GROENE: Excuse me, but I thought that that-- after Ak-sar-ben went bad
and Atokad went bad, then they would just keep those tracks open with
broad simulcasting. That was a result of the tracks--

CHAD MCKAY: Yeah, I would, I would--

GROENE: --not the cause of it.

CHAD MCKAY: I couldn't tell you exact timeline, but I wouldn't say it
was the cause of it. We, we could have leveraged our, our interest in
it a little bit better. But as a, as a horseman, I can say it's been
kind of an--

GROENE: So--

CHAD MCKAY: --an industry on the downhill slide, yes.

GROENE: So now that simulcasting is-- is there any races at all raced
in Lincoln? How many are raced in Lincoln?

CHAD MCKAY: Yes, yes. This year, because of COVID, COVID only, we was
only able to run a few races in Lincoln this year.

GROENE: How many do you normally run a year?

CHAD MCKAY: Lincoln, we-- well, I got a personal opinion in this. We--
our land was stolen. Our racetrack was stolen there at State Fair
Park. You know, there were some gentlemen agreements and I can't--

GROENE: But how many races are run?

CHAD MCKAY: Now or back then?

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GROENE: Now.

CHAD MCKAY: Now? We-- correct me if I'm wrong--

GROENE: [INAUDIBLE]

CHAD MCKAY: One day with two races?

GROENE: Three races.

CHAD MCKAY: Yeah, two, two race--

GROENE: All right, so--

CHAD MCKAY: --that was because of COVID this year.

GROENE: Excuse me, so now they built that, kept it open so they could do simulcast in the same-- in Omaha.

CHAD MCKAY: Correct.

GROENE: So why would you think they're going to start running races again when now you expand the other side of the gambling to casinos? And I don't understand all of the sudden-- why all of the sudden you think they're going to start racing horses.

CHAD MCKAY: Because that is owned by the horsemen and that money is going to be put back by the horsemen.

GROENE: The gambling money, the casino money?

CHAD MCKAY: Yes, yes, yes.

GROENE: So you think the casino money will finance bigger purses for--

CHAD MCKAY: Absolutely it will.

GROENE: So you're the first one to explain that.

CHAD MCKAY: Yeah, 100 percent. We have a contract with Ho-Chunk where a certain percentage comes back to the horsemen.

GROENE: And you use that for purses--

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CHAD MCKAY: Yes, correct.

GROENE: --and it helps bring back the racing.

CHAD MCKAY: And the one reason I know it's going to get used for that because the HBPA does represent the horsemen and it is controlled by the horsemen. So in my past history, dealing with the Thoroughbred Breeders Association and Fonner Park, they overspent. They-- it was mismanaged and they overspent their breeds funds by \$191,000 and they just said you're not getting paid. So normally on a-- after you win a race, you get paid within a couple of days, usually after a drug test passed, then you get paid. I didn't get paid for about 60 days after the meet was over and that's because the HBPA picked up the tab, not, not Fonner Park and not the breeders' association. The HBPA picked up that tab and then more lawsuits started after that. So that's why I'm speaking as an owner that it will buy breed horses and I am breeding horses.

BRIESE: Thank you, Senator Groene. Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman, and thank you, Mr. McKay. The increase in casino funding that Senator Groene just asked you about, is that going to be distributed across all tracks in the state or would that just be the ones that have the-- that are owned and then have-- are operated by the HBPA?

CHAD MCKAY: So whatever the other tracks do, CER, which is in Columbus, or Fonner in Grand Island, I have no say or nothing to date-- the horsemen have no say in that.

J. CAVANAUGH: Well, my question is you, you are saying that this is going to help solve this problem with purses, but is it going to solve the problem of purses just at Horsemen's and is it the one Lincoln--

CHAD MCKAY: Not necessarily, no, because right now, as the HBPA, we couldn't touch the breeders' funds, but we can touch the funds that we earned racing at those tracks and we can distribute that and we have over the last few years.

J. CAVANAUGH: OK, so that's-- my question is this increase in, in funds that are going to come from the casinos at Horsemen's--

CHAD MCKAY: Um-hum.

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J. CAVANAUGH: --that is going to help with purses, breeders' funds at
other tracks?

CHAD MCKAY: Potentially it could.

J. CAVANAUGH: OK.

CHAD MCKAY: There's no, no contract signed right now.

J. CAVANAUGH: So what, what's the specific problem with this bill that
you're here to oppose?

CHAD MCKAY: It takes the, the control of the money out of the hands of
the people that I know will put it out-- back into the, the horsemen's
hands. So every time we sign as a horseman, every time we have to sign
a contract with Fonner Park-- and I don't blame them, they're a
business, right-- they want to give you as little as they can. Not--
and that's not a fair statement. They try to do their best, but
they're in the business. They're looking out for their best interests
and we're looking out for the horsemen's best interests, so it becomes
a game. You know, what can you put into your purses? And you know, and
it becomes a competition, yes.

J. CAVANAUGH: So the story you just told about the overspending and
that, that was as-- that was a fund that was managed by the
organization that this bill is seeking to put the money in charge of?

CHAD MCKAY: It's a very complicated system, but yes, yes, it is.

J. CAVANAUGH: So you're-- specifically, I guess, my interpretation of
your objection is that this would shift the local control of the funds
into the hands of some org-- of an organization you just distrust to
manage the fund.

CHAD MCKAY: I never said I distrust the commission.

J. CAVANAUGH: OK.

CHAD MCKAY: I never said that.

J. CAVANAUGH: But that's-- I'm just trying to understand.

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CHAD MCKAY: But there will be people there to petition the commission to say spend this money here or spend it here on this.

J. CAVANAUGH: So, so it's not a matter of distrust, it's a lack of confidence?

CHAD MCKAY: Yeah, you could put it that way.

J. CAVANAUGH: OK, thank you.

BRIESE: Thank you, Senator Cavanaugh. Senator Groene.

GROENE: So what you said earlier about the, the casino money being shared with the horse-- with the racing, that's a gentlemen's agreement or is that a statutory agreement?

CHAD MCKAY: No, no, that's not a gentleman's agreement.

GROENE: Is it somewhere in the statutes?

CHAD MCKAY: No, no, no, that's between us and the, the, the casinos.

GROENE: It's going to be a contract--

CHAD MCKAY: Yes.

GROENE: --a person-- a private contract--

CHAD MCKAY: Yes.

GROENE: --that the casinos control because it-- they have-- whoever has the money controls if they're going to sign an agreement with you.

CHAD MCKAY: Well, they have to have a racetrack to, to have their casino, so it becomes a partnership.

GROENE: So then the bene-- the benevolent side, you could threaten to pull out their endorsement of their racetrack, so it's, it's power.

CHAD MCKAY: Yeah, it's power. And like I said, it, it's-- and it-- every time-- you're negotiating every year, you know.

GROENE: Thank you.

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BRIESE: Thanks, Senator Groene. Anyone else? Seeing no other
questions, thank you for your testimony.

CHAD MCKAY: Thank you.

BRIESE: Next opposition testimony. Good afternoon and welcome.

SEAN KELLEY: Good afternoon, Chairman Briese and members of the
General Affairs Committee. My name is Sean Kelley, S-e-a-n
K-e-l-l-e-y, appearing today as a registered lobbyist for the Omaha
Exposition and Racing Incorporated. First off, I'd just like to thank
this committee for your interest in horse racing. Having worked on
this issue in this building for many years, it's never been at this
high, high of a level, so I appreciate the interest. I'm going to read
a statement from the general counsel for OER who litigated this issue,
which I think is, is the fruits of LB536. OER operates Horseman's Park
and Lincoln Race Course, offering live thoroughbred horse racing and
simulcasting of interstate and intrastate horse racing at both
facilities. OER opposes LB536 because it was harm-- it would harm
horse racing, create bad public policy, promotes expanded government,
and creates a system enabling governmental interference in the
marketplace. Current law is not broken and should not be amended. This
proposal stems from Fonner Park's sustained efforts to obtain funds
collected on wagers at Omaha and Lincoln race-- horse racing
facilities to support purse structures and business operations that
clearly exceed its revenues. The recent passage of the citizen
petition initiatives creating-- with that creation, will improve
Fonner Park's financial condition. Current law requires licensed and
regulated racetracks like OER to collect a portion of each and every
wager to be thereafter spent at the track where such funds were
collected as purse supplements and breeder and stallion awards for
Nebraska thoroughbreds. OER provides reports to the Racing Commission
and the NTBA regarding those fund account balances. It is subject to
the audit, accounting, and regulatory power to properly hold and
expend these funds. Current law facilitates and requires a transparent
system, proper and adequate regulation that support a marketplace free
from government or any other interference. There are some, however,
particularly Fonner Park and the NTBA, who seek the funds collected on
wagers at OER's Horsemen's Park and Lincoln Race Course in order to
subsidize Fonner's operations. This is to allow Fonner Park to offer
purses greater than its current income supports and its poor business
practices that promote the same. Rather than adjusting their expenses

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commensurate with its revenue, Fonner and the unregulated entity, NTBA, approach the racing commissioners a few years ago to request it sanction their money grab. Amazingly, the previous Racing Commission agreed, ordering OER to transfer all the funds it collects and has collected to the NTBA, which is an unregulated entity with no staff. That's right. The commission ordered a regulated, insured, audited, and professionally staffed organization like OER, under an existing transparent structure, to transfer the funds to the custody of an unregulated entity with no employees, which had admitted its intent to divert the funds to Fonner Park. This legislation clearly stems because Fonner Park and the NTBA under-- understand present law clearly and unambiguously prohibited transfer, as a district court judge in Lancaster County found. In-- instead, they've conjured up LB536, which now proposes to require all funds to be paid to the State Treasurer, who will annually transfer the funds to the Racing Commission, who will thereafter select where the funds are spent. I see my red light is on. I'm happy to answer any questions you might have.

BRIESE: Thank you. Any questions? Senator Brandt.

BRANDT: Thank you, Chairman Briese. Thank you, Mr. Kelley, for testifying today. So if Fonner Park runs 500 races a year and they do not have a casino and Lincoln runs two races a year and they have money in their fund from the casino, those two races could pay-- they could be really big purse races, could they not?

SEAN KELLEY: They could. Are you referring to funds derived from casino gaming?

BRANDT: Yes, yeah.

SEAN KELLEY: OK, sure.

BRANDT: I mean that's what we're talking about here. We're talking about not sharing the funds derived from the casinos in Omaha and Lincoln and spreading it out to the other tracks, are we not?

SEAN KELLEY: Respectfully, no. I think on this bill, we're talking about pari-mutuel wagering handle--

BRANDT: OK.

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SEAN KELLEY: --which is 1 percent. That-- this deals with 1 percent of
the pari-mutuel wagering occurred at racetracks.

BRANDT: So this, this, this is not impacted by the money from the
casino?

SEAN KELLEY: Correct.

BRANDT: All right, thank you.

BRIESE: Thank you, Senator Brandt. Any other questions? What does 1
percent amount to-- ballpark?

SEAN KELLEY: Good question. I know the person behind me will be able
to answer that specifically, but hundreds of thousands.

BRIESE: Pardon?

SEAN KELLEY: I believe it's in the hundreds of thousands.

BRIESE: In your testimony today, can you provide that-- a written copy
to the--

SEAN KELLEY: Sure--

BRIESE: --committee?

SEAN KELLEY: --happy to.

BRIESE: Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. Thank you, Mr. Kelley. So the
previous testimony was more-- so the purpose-- stated purpose of the
bill is to support Nebraska-bred horses. That's the word--

SEAN KELLEY: That's correct.

J. CAVANAUGH: OK and that takes the form of increasing purses to a
horse who was born or bred in Nebraska when they come in first,
second, or third in the race.

SEAN KELLEY: Correct.

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J. CAVANAUGH: And my understanding from the testimony, but I haven't actually heard any specifics on it, is there's money taken at specifically-- and I always use the example of Horsemen's Park because it's nearby where I live-- but some of these racetracks, that is taken into this fund, but that is not being dished out. Is that--

SEAN KELLEY: That's right. And I think one thing, Senator, that may be lost is that OER supports putting these dollars into purses, period. We support that policy. We just think it should be done at the track where the money comes from.

J. CAVANAUGH: And so that was my next question. So could the-- because the goal is just to get purse money into the hands of breeders--

SEAN KELLEY: Right.

J. CAVANAUGH: --is not the solution here to do that at the tracks where the, the money is taken at?

SEAN KELLEY: That's what we think.

J. CAVANAUGH: OK, so is there a reason, outside of the statutory changes, that that's not happening or that we could remedy?

SEAN KELLEY: I mean that's OER's intent. Horsemen's Park's intent is to put it back in purses and that, that continues to happen and as they run more and more live dates, that, that number will be spent at a higher rate.

J. CAVANAUGH: And there-- I mean, obviously, there's a lot of predictions about what's going to happen, but is there a reason that they're not running enough live dates to hand out that money at this point?

SEAN KELLEY: I-- the main-- there's a variety of reasons, space being one of the biggest reasons Horsemen's Park doesn't run a longer meet. And in the past, it was revenue, ironically enough, on the heels of the, the petition drive. I think there-- a lack of money is what got us to this point. I don't think that's going to be an issue going forward for these racetracks and the horsemen.

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J. CAVANAUGH: Right, but this is a-- I mean my understanding is this is a question of having money sitting. There's nothing used, not a lack of revenue.

SEAN KELLEY: In, in Horsemen's Park's case, that's correct. But other tracks, for example, Fonner Park, is probably not-- they probably don't have the money they, they want is-- which is why they have this bill--

J. CAVANAUGH: OK.

SEAN KELLEY: --to take the money from Horsemen's Park.

J. CAVANAUGH: Yeah. Well, and Senator Brandt left, but just to clarify kind of on Senator Brandt's question, we were talking about increasing purses as a result of casino revenue. Just to clarify, this bill does not address that, but there is the potentiality, because of the increased interest and increased transactions, that money could come in from other sources.

SEAN KELLEY: Yes, I agree. That will happen, yes.

J. CAVANAUGH: I, I think that was kind of what Senator Brandt was getting at-- for the conversation we had around that.

SEAN KELLEY: Got it.

J. CAVANAUGH: Thank you.

SEAN KELLEY: Yeah.

BRIESE: Thank you, Senator Cavanaugh. Senator Groene.

GROENE: So this is interesting, but-- so if you simulcast during the day--

SEAN KELLEY: Yeah.

GROENE: --you got a limit in how many races you can simulcast a day?

SEAN KELLEY: No.

GROENE: So do they have to have one Nebraska bred simulcast race every day--

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SEAN KELLEY: No.

GROENE: --like they do-- why not?

SEAN KELLEY: Well, I mean if you're simulcasting-- you know, like today, for example, there's no-- nothing running in, in Nebraska, so you're watching a race from California or Florida or--

GROENE: I keep hearing the money is generated in Omaha and Lincoln, all right, simulcast [INAUDIBLE]--

SEAN KELLEY: Right.

GROENE: --all right, but you're big, you're big-- then on the other hand, you double-minded, you tell me that you're big supporters of the breeders when none of your races supports any local breeders.

SEAN KELLEY: No, every race that they run live supports Nebraska breeders.

GROENE: How many does the Omaha course-- racetrack run a, a-- live races a year?

SEAN KELLEY: Last year, it ran-- they ran nine live racing days.

GROENE: Sounds like a lot of support to me, thank you.

BRIESE: Thank you, Senator Groene. Any other questions? Seeing none, thank you for your testimony.

SEAN KELLEY: Thank you.

BRIESE: Next opponent testimony. And just for information purposes, I think when this hearing is completed, we're going to take maybe a quick 15-minute break before we continue on with the 1:30 hearings.

MIKE NEWLIN: Thank you, Chair.

BRIESE: Go ahead. Welcome.

MIKE NEWLIN: My name is Mike Newlin, N-e-w-l-i-n. I'm CEO of Omaha Exposition and Racing, general manager of Horsemen's Park and Lincoln Race Course. I should be able to answer a lot of the questions that maybe some of the other group couldn't. And as relation to some of the

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questions that Senator Wayne had regarding how to get a license, I know that Tom Sage, executive director of the Racing Commission, is here and I'm sure he can assist with some of those technical questions. LB536 eliminates the racetracks from any involvement in how and where these funds are spent. The racetracks generate those funds. Those funds are held individually at each racetrack based on 1 percent of dollars wagered at the track. So I'm going to try to make this-- I was getting confused listening to it and I know what's talking-- what's going on. The current state statute needs no revisions or amendments and especially looking towards the future with the casino gambling coming in, several people have stated we will be running more days. Every year that I've been at Horsemen's Park, we've added days. For any of the senators that are in the Omaha district know that for years and years, they ran three days. Well, last year we ran nine days. We've added live days every single year that I've been there. Last year, over nine days, we had 67,000 fans. Every track in the state of Nebraska is required to run one Nebraska-bred race per day by law. So whether you're running 31 days at Fonner or nine days in Omaha, you have to run one Nebraska-bred race per day and that's where you use your breed funds. Omaha traditionally-- when Ak-sar-ben was around, Omaha had the largest breed fund. Therefore, you ran for more money in Omaha, which makes sense. It's a larger market. You should be running your horses in Omaha and that breed fund races should pay more than they would pay in Columbus or Fonner based on how the, the money is collected. We had a lot of Omaha farms back then. We had a lot of people in Omaha and Lincoln involved in it. As Ak-sar-ben closed and you lost those racing days, the interest from those farmers and those breeders went away. All we have left currently is pretty much Grand Island's breeders, but as we've gotten this casino bill passed, we plan to run 55 days minimum in Lincoln next year, maybe more. We've developed a seven-furlong track, which is the largest track in the state. We have the ability to have a turf course on the inside of the track. And I think if any of you have seen the conceptual designs of the casinos, there will be a five-story hotel overlooking the racetrack. Lincoln will be, quickly, the premier racetrack in the state. Omaha-- as casino money starts developing, Omaha will be running more days and we may build maybe another track down the road. You may see an Ak-sar-ben-style track again, where we're running 80 days per year. So that's why I'm saying this money is basically-- LB50-- LB536 is basically about taking money from the Omaha and Lincoln markets and putting it into the smaller tracks. That doesn't

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make sense as we try to build this and to get Omaha and Lincoln owners and breeders back in this game. I can handle any questions that you might have.

BRIESE: Thank you. Senator Brandt.

BRANDT: Thank you, Chairman Briese, and I'm sorry, I didn't catch your name.

MIKE NEWLIN: Mike.

BRANDT: Mike, isn't it-- you know, I, I see this argument getting sort of parochial that-- Omaha money for Omaha breeders, Lincoln money for Lincoln breeders.

MIKE NEWLIN: It's not-- it's Nebraska breeders. It's-- regardless of whether-- if you breed your horse in Grand Island, you're still going to get Omaha money.

BRANDT: But I, I guess my point is you would like to see that Omaha money stay at that Omaha track to increase more breeders there and you just stated that you've lost that whole infrastructure when we lost Ak-sar-ben. So isn't it in the benefit of the entire state to build up the Nebraska breeding system, even if that means moving some of the money around?

MIKE NEWLIN: Well, I think the state statute was clear. The state statute says you have to-- the track that generates the money is to disperse that money at that track. You cannot expect Lincoln to run 50, 60 days if they don't have the money in their breed fund to pay for that one Nebraska-bred race every day of the meet. So where we are expanding, Omaha and Lincoln and I think Columbus will probably expand a little bit, we're expanding the racing and the opportunities for breed-- Nebraska-bred horses. I mean they've only averaged about 40 foals a year because there really wasn't much racing. Already this year, you're going to see a huge increase in that foal crop. So we will get back to that spot where we were with Ak-sar-ben when there was 800. But even in the Ak-sar-ben days, you didn't run a Nebraska-bred purse at Ak-sar-ben for \$20,000 and run that same exact race in Columbus for \$20,000. It, it was based upon the money that you generated and you set aside for your breed fund at that track.

BRANDT: All right, thank you.

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MIKE NEWLIN: Thank you.

BRIESE: Thank you, Senator Brandt. Anyone else? Senator Cavanaugh.

J. CAVANAUGH: Sorry, I just-- OK, so the objective is-- from the statute as written and purportedly that we're trying to change, is to support and foster the local-grown industry, is that, that--

MIKE NEWLIN: I think it's the breed industry at a whole, but you're rewarding based--

J. CAVANAUGH: Well, by local, I mean Nebraska, but yes.

MIKE NEWLIN: Yes, sir. Yes, sir.

J. CAVANAUGH: So it's to support the industry in Nebraska.

MIKE NEWLIN: Correct.

J. CAVANAUGH: And the best way-- my understanding is, is to put money into the hands of the breeders through incentivizing them to breed and then race horses.

MIKE NEWLIN: Correct.

J. CAVANAUGH: OK, so-- and you might know this, so how many total race days are there in Nebraska currently?

MIKE NEWLIN: Currently, there are 52.

J. CAVANAUGH: Is that 52 where say--

MIKE NEWLIN: That's a mandated requirement. We have to, together, run 52 compliant--

J. CAVANAUGH: As a minimum--

MIKE NEWLIN: As a minimum.

J. CAVANAUGH: --and that's where we're at?

MIKE NEWLIN: That's where we're at this year, yes, Senator.

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J. CAVANAUGH: Because you're saying Lincoln is thinking about running 55 in a couple of years?

MIKE NEWLIN: That would be next year once we have the casino done and we have the track complete. I mean our track-- dirt track is completed, but we still have work to go to finish off the infrastructure of the racetrack.

J. CAVANAUGH: So and-- so the, the final question is the 52, does that mean if there's a race run in Omaha and a race run in Grand Island, that's one day or is that two days?

MIKE NEWLIN: That's two days.

J. CAVANAUGH: Even though they're on the same calendar day?

MIKE NEWLIN: We, we never usually cross over on the calendar. It's, it's Fonner runs X days and then we go to Omaha, then we go to Columbus or whatever, so we, we don't cross over days.

J. CAVANAUGH: But potent-- there's the potentiality for if you run 55 days in Lincoln, 55 days in Omaha, and 30 days in Grand Island--

MIKE NEWLIN: There--

J. CAVANAUGH: --there's a potentiality for that, correct?

MIKE NEWLIN: There could be, but still each track has to run its own one breed race for the card that day.

J. CAVANAUGH: That was going to be the next question.

MIKE NEWLIN: Yes.

J. CAVANAUGH: So each track runs a breed race, which is every horse in that race is Nebraska bred.

MIKE NEWLIN: Yes, sir.

J. CAVANAUGH: OK, the other races have no requirement that those be Nebraska-bred horses?

MIKE NEWLIN: No, those are open.

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J. CAVANAUGH: And for these Nebraska incentives, that-- is that exist on those purses no matter what? Meaning if I had a Nebraska-bred horse, would I just say, oh, I'm going to enter this race and then they will have to tack on a breeder incentive onto that purse?

MIKE NEWLIN: If it's an open race?

J. CAVANAUGH: Yes.

MIKE NEWLIN: Yes, if you enter your Nebraska bred in an open race, there still would be some benefits coming out of the breed fund to reward you if you hit the board in that case, yes, but a Nebraska-bred race is all Nebraska-bred horses. We're required to run one of those each day.

J. CAVANAUGH: And so the question is, is the best way, by volume, to increase the amount of money going towards breeders to increase number of race days or number of races?

MIKE NEWLIN: Yes, yes, because you're not going to-- you know, if you increase race days, that-- it increases the, the opportunity to, to have a-- your Nebraska-bred horse run and that will mean we need more Nebraska-bred horses. Right now, some of our breed races last year in Omaha had five horses. You'll see that at Fonner this year, five and six horses because there hasn't been that crop size because there was no money in Nebraska racing at the time. So now you're going to be-- you're going to see more dates being added every year. You're going to see the racetracks develop and, and want to run more races, so there's going to be a lot more opportunities. There is going to be a lot more Nebraska-bred foals.

J. CAVANAUGH: So that-- and that is regardless of whether this bill passes or not. My question then is does this bill have the potentiality to decrease the-- that-- the number of race dates going forward? Would it--

MIKE NEWLIN: Yes, I mean, as, as the general manager of Omaha and Lincoln, if, if half a million dollars of our money is being spent at, at other tracks, then that reduces the amount of value I would have as running Nebraska-- right now, we run bigger stakes races for Nebraska bred, which, you know, it used to be when you went to Ak-sar-ben, that was going to the show. You were making your big money at

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Ak-sar-ben and that's the way we want, we want it to be. We want the market to determine what those purses should be at each one of those tracks.

J. CAVANAUGH: So that-- my question is if we were to pass this bill as is, would it not-- that-- would it potentially have the impact of decreasing amount of money going into the hands of Nebraska breeders in the long term?

MIKE NEWLIN: I think it would, it would decrease the amount of days because, you know, if I, if I am saying I'm going to run 50 days in Lincoln, but we've only got, you know, 80 viable Nebraska-bred horses, there's just not going to be enough days that you can run those horses back. You have to run one Nebraska-bred race a day so there won't be enough horses. So I-- and if part of my breed fund that I'm using to pay those races is going to other people and it, you know, reduces, then, then I can't run as many days as we'd like, yes.

J. CAVANAUGH: OK.

MIKE NEWLIN: We are, we-- you know, the casino initiative was a, a savior to Nebraska racing. I mean we want to run more races. We want to get back to that Ak-sar-ben level and I think we will, but again, you cannot take money from Peter to pay Paul. You know, it's-- it just doesn't make sense. I mean the, the money generated at Omaha or Lincoln is based on 1 percent of every dollar wagered there and, and that money needs to be reinvested back in those purses at that track.

J. CAVANAUGH: Thank you.

BRIESE: Thank you, Senator Cavanaugh-.

MIKE NEWLIN: Yes, sir.

BRIESE: Senator Groene.

GROENE: You said you had nine racing days. How many races did you have?

MIKE NEWLIN: We average about seven races per day.

GROENE: So you did on all nine and you can seat 7,000 or 8,000 people or whatever 9--

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MIKE NEWLIN: Oh, we had one day where there was 16,000 people there.

GROENE: You have that much seating there?

MIKE NEWLIN: We did-- not technically seating, but as, as some of the senators that have visited us during live racing know, people are walking around, going in and out. We have the west parking lot blocked off as a biergarten. I mean, it was a, it was a huge day and over nine days, we had 67,000 people there.

GROENE: What's your normal attendance--

MIKE NEWLIN: About 8,000.

GROENE: --for simulcasting?

MIKE NEWLIN: For simulcasting? On a normal Saturday, probably about 1,200.

GROENE: So you-- but you keep comparing it to the Ak-sar-ben days, but there's a big thing here that's involved that never existed back in the Ak-sar-ben days. It's called simulcasting.

MIKE NEWLIN: Uh-huh.

GROENE: That simulcasting doesn't bring any jockeys jobs. It don't bring anybody cleaning out the stalls or anybody working anywhere. That simulcasted money has been a big addition to, to this 1 percent, is it not, right?

MIKE NEWLIN: It has, but over the years, it's decreased. If you look at the, the historical handle, we-- every track has decreased over the last 25 years.

GROENE: But doesn't a big chunk of the purse come from the amount of money that's wagered on a race?

MIKE NEWLIN: Not necessarily. I mean you, you establish your purses well ahead of time. I mean you, you estimate what revenues you have and you build your races well in advance and, and say these are the-- this is the amount we're going to pay every race.

GROENE: Oh, I see.

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MIKE NEWLIN: Then your breeders' race would be base-- based upon how much you have in your breeders' account to determine what that, that breed race is going to pay.

GROENE: For the Nebraska bred.

MIKE NEWLIN: For the Nebraska bred, yes. So the simulcasting handle continues to go down every year. It really-- we really get-- over the past few years-- obviously, the Iowa casinos adding an additional casino with Carter Lake, but with the advent of sports betting in Iowa, Omaha really has, has seen a, a big reduction in handle, so-- you know, the goal is to run more races. The more races we run, the more hords-- horses we need, the more money that we generate to, to reinvigorate Nebraska horse racing.

GROENE: And then the more adage you create to come in in the off season to vote on simulcasting.

MIKE NEWLIN: Yes, sir, yes, sir. I mean, you know, the, the live racing component is the thing that's going to build the jobs.

GROENE: Yes it will.

MIKE NEWLIN: You know, if you go from 52 a year to 150 a year, you, you, you are now employing a lot more people than you were before.

GROENE: Thank you.

BRIESE: Thank you, Senator Groene. Anyone else? Senator Wayne.

WAYNE: So this isn't necessarily a part of this bill, but I'm just kind of interested. So the, the casino money we'll call it, how does that benefit western Nebraska?

MIKE NEWLIN: How does the casino money benefit western Nebraska?

WAYNE: Because it, it, it seems like we're trying to keep-- according to you, we're going, we're-- Omaha and Lincoln are going to be able to increase their purses and run more races because of the casino money. My question is how does the casino money benefit western Nebraska?

MIKE NEWLIN: Well, I think eventually you could see a horse track in western Nebraska. There's--

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WAYNE: And the reason I say that is because I'm trying to-- let me clarify. I understand Groene's point and, and it took the third to pass it, right-- second-- first and second couldn't pass it, so a part of the 3rd District had to vote for it in order to get it passed.

MIKE NEWLIN: Um-hum.

WAYNE: What's the return for the 3rd District if we're just building north-- CD 2 and Omaha and Lincoln?

MIKE NEWLIN: Well, there is, there is nothing that prevents somebody from North Platte, you know, wanting to build a track out west. I mean it-- there's, there's nothing-- and I, I would foresee that probably in the near future, someone's going to build a track further out west. It's, it's the-- it's an area that doesn't have a lot of competition, so--

WAYNE: What is the smallest track one could build in the industry?

MIKE NEWLIN: What is the smallest track what?

WAYNE: What is the smallest track somebody can build?

MIKE NEWLIN: As far as distance, as far as a--

WAYNE: Yeah.

MIKE NEWLIN: Probably five, four and a half, five furlongs would be the--

WAYNE: What's the-- English-- I don't know what that means.

MIKE NEWLIN: Half a mile, a little bit more, and a half a mile as far as an oval goes.

WAYNE: So--

MIKE NEWLIN: And that's for thoroughbred horses. I mean quarter horses don't need as much of a, a racing strip as thoroughbreds do.

WAYNE: So then we-- you were here earlier and you-- we saw testimony earlier. I was going back--

MIKE NEWLIN: Um-hum.

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WAYNE: --and forth, so the NHPBA [SIC], is that-- was that owner
representative or is that just--

MIKE NEWLIN: The HBPA, Nebraska HBPA?

WAYNE: H-- yeah.

MIKE NEWLIN: What about it?

WAYNE: Like, who, who makes that up again?

MIKE NEWLIN: That's anyone that races a horse in the state of Nebraska
at all. License-- you have to be a licensed-- you know, anyone that
owns a horse or trains a horse has to be licensed through the Nebraska
Racing Commission, but those are all the owners and trainers of, of
race horses that are racing in Nebraska, regardless of breed.

WAYNE: So are the owners of the track owners of the races-- I mean of,
of the horses?

MIKE NEWLIN: No, no.

WAYNE: OK.

MIKE NEWLIN: I-- the, the-- you know, the Nebraska HBPA is a nonprofit
organization that, that-- I think you're kind of getting it mixed up
with when the, the previous person mentioned that the Nebraska HBPA
owns the property that Horsemen's Park sits on and the property that
Lincoln sits on. Fonner and Columbus and Sioux City and, and, and
Hastings' quarter horse track are, are not owned by the Nebraska HBPA.

WAYNE: So the ones in Lincoln and Omaha are owned by the HPBA [SIC].

MIKE NEWLIN: The property is, yes--

WAYNE: The property is.

MIKE NEWLIN: --and OER manages it.

WAYNE: Who manages it? I'm sorry.

MIKE NEWLIN: Omaha Exposition and Racing, who is-- that's who I work
for. We manage the, the racing operations at those two locations only.

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WAYNE: So does the Omaha market or the Lincoln markets, can they
support another track?

MIKE NEWLIN: I, I don't know. That would, I-- that would probably take
a good market study. I-- you know, I would say probably not in Omaha
because you have four sitting ten minutes away in Council Bluffs, so--

WAYNE: Four what, tracks?

MIKE NEWLIN: --I don't know-- excuse me?

WAYNE: Four tracks?

MIKE NEWLIN: Casinos, casinos. I'm talking about casinos.

WAYNE: Right, but the purpose of the track is for the track and this
is all about the horses, so I'm-- what I, what I'm trying to find out
is if I have the money and I want to start a track in Omaha, can it be
done?

MIKE NEWLIN: Yeah, I mean I-- it wouldn't be a wise business decision,
but yeah, you could do it.

WAYNE: But I have to go to the people who own your casino or your
track to get approval to get in.

MIKE NEWLIN: You'd have to get a contract with them, a live meet
contract with them, yes. But then you'd also have a, a situation on
the simulcasting side of it, where there are some interstate
simulcasting rules where you wouldn't be able to have a simulcast
license within 50 miles of a current existing simulcast facility. So
while you may be able to have a live racetrack and meet whatever
requirements the Racing Commission can specify after I-- after I'm
finished, having a simulcast license would be impossible because you
would be within 50 miles of Horsemen's Park. But you're not asking
about simulcast--

WAYNE: So, OK--

MIKE NEWLIN: --you're asking about live racing.

WAYNE: That's a good question, so do you have separate licenses for
Lincoln and Omaha?

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MIKE NEWLIN: We have a separate live racing license and a separate simulcasting license, yes.

WAYNE: So, so the simulcasting license for your organization covers both Omaha and Lincoln?

MIKE NEWLIN: No, they're individual.

WAYNE: But that's not 50 miles apart.

MIKE NEWLIN: Omaha and Lincoln-- our locations in Omaha and Lincoln?

WAYNE: Yes, that's not 50 miles apart.

MIKE NEWLIN: The exact location, Tom?

TOM SAGE: I couldn't tell you the exact location.

WAYNE: Well, I know it's not 50 miles apart because from-- I live on the north side of Omaha and it's 53 miles to get here.

MIKE NEWLIN: Yeah.

WAYNE: It's not, it's not 50 miles.

_____: Yes.

MIKE NEWLIN: It's more than 50. I mean Lincoln Race Course address to Horsemen's Park address. I think I'd have to pull that up on my--

WAYNE: All right, I can do that.

MIKE NEWLIN: --computer.

WAYNE: OK, I'm just-- this is really interesting that it's such a closed market--

MIKE NEWLIN: But I, I think--

WAYNE: --because people can't get in.

MIKE NEWLIN: Yeah, I think Mr., Mr. Sage can probably answer what the requirements are to be licensed, but there's, there's-- really, if you want to have a live racetrack, I don't know that anybody would want to

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have live racetrack before November 3 in, in, in honesty. I mean we were, we were not doing well and, and, you know, we-- we've plugged along as, as best we could for a long time. And, and Omaha especially, competing against four casinos, sports betting, and everything else that we've done, we're lucky to be at the point where we are.

BRIESE: Thank you, Senator Wayne. Anybody else? Seeing no other questions, thank you for your testimony.

MIKE NEWLIN: Thank you, sir.

BRIESE: Any other opposition testimony? Seeing none, anybody wishing to testify in a neutral capacity? Good afternoon again.

TOM SAGE: Senator Briese, members of the committee, thank you for giving me the opportunity. I'm sorry. I didn't let you clean. I was ready to get going here. Thank you. Sorry about that. My name is Tom Sage, last name is S-a-g-e. I'm the executive secretary of the Nebraska Racing Commission. I'm here on behalf of the Racing Commission. As we spoke this morning, we had a commission meeting on Friday, the 29th of January. This bill was brought up, LB536. After considerably a lot of input from the industry, our commissioners voted to-- at a neutral stance or a neutral position of this bill. With that being said, again, they wanted me here to answer any questions. There seems to be a lot of questions. I'm not sure if we have enough time today to answer all those questions, but I would love to meet with any of you any time you want, day, night, weekends, it doesn't matter. I'm always there working. Senator Wayne, we live very close together, so any time. I would love to, you know, let you know, help you out, address anything I can. A couple of things that I'd like to address is remember, the Racing Commission is a state agency. It's separate from some of the other abbreviations that we've heard. The State Racing Commission is appointed by the Governor and it's confirmed by this body, by the whole Legislature. Our, our commissioners are confirmed by the Legislature. Senator Wayne, you asked a bunch of questions about what was required for a racetrack. I would refer you to-- I should have brought a rulebook, but I didn't-- but I would refer you to the Nebraska Racing Commission statutes, 2.005 [SIC], criteria for determining race date allotments to sponsorship associations. You, you asked about whether a two-track could be built in Omaha. I would suggest you read that language if you would. I think that will clarify a lot for you. And again, I'm here for any questions, concerns,

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anything I can address. I just want to let you know I'm here for you
guys with whatever information you would need or questions. I'm always
available. With that, any questions, I'll try to address them to now.

BRIESE: Thank you for your testimony. Senator Groene.

GROENE: This-- you've-- dog tracks are under this also, right?

TOM SAGE: We have no dog track language and our constitution does not
allow dog tracks.

GROENE: So the one that was in Sioux City was in Iowa.

TOM SAGE: It was actually in South Sioux City-- or I'm-- excuse me, it
was in-- actually in South Dakota.

GROENE: All right.

TOM SAGE: I'm trying to even think what the town, the town was called,
but, yeah, it was just literally right across the border.

GROENE: Thank you.

BRIESE: Thank you, Senator Groene. Anybody, anybody else? Senator
Wayne.

WAYNE: I do have some questions. Based upon the, the statute, could
there be more or is it possible to have another racetrack in Omaha or
Lincoln?

TOM SAGE: Senator Wayne, I don't know that I personally can answer
that question. I think that would be something that would have to go
in front of the commission. There would have to be the studies. The
criteria in Chapter 2 would have to be addressed, which, which
indicates granting licenses, you know, just summing it up,
overlapping, whether it's best for the industry. I personally could
not answer that question.

WAYNE: So we have a new industry that we can't open up the markets in
Omaha because it'll take-- we have to get approval by a board, but I
can't get approval by the board unless the industry allows me to do
it, of which they own property in Omaha.

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TOM SAGE: And I somewhat disagree with the prior testimony, Senator
Wayne--

WAYNE: OK.

TOM SAGE: --but I don't know if you want to--

WAYNE: No, I, I do-- I want to know.

TOM SAGE: I don't believe-- I believe the commission can grant a
license without there being a contract with the HBPA.

WAYNE: Do I have to have a, a contract with any live racing
organization, whether it's quarters, whether it-- do I have to have a
contract?

TOM SAGE: I personally don't think you do. Again, that would be more
of a question I would have to address to our commissioners, which we
do have our chairman here, during LB560, LB561, may be a good
question.

WAYNE: OK, I'll wait till then.

TOM SAGE: Yeah, OK.

BRIESE: Thank you, Senator Wayne. Anybody else? Senator Groene.

GROENE: Quick question. In North Platte, Nebraska, we have
Nebraskaland Days. We have the big rodeo and stuff, so the interesting
question, if we wanted to have an amateur race, a quarter horse race
as part of Nebraskaland Days and pay a purse--

TOM SAGE: Um-hum.

GROENE: --they would have to be licensed.

TOM SAGE: Yes, I believe they, they would if there was pari-mutuel.
And also if-- the way I read the definition of a racetrack enclosure,
if you're going to the gaming initiative or, or the Racetrack Gaming
Act, that indicates you have to be within a racetrack enclosure, which
is defined by having a license through Section 2-1201 through what--
it goes on forever, but it would then be the racing statutes. So to
me, to have a casino license, you would have to have a racetrack

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license that was granted by the Nebraska Racing Commission. Now if you went and you decided as your own self, you're a nonprofit, you come in and apply for a license, you go through all the safety measures-- we make sure that track surfaces, the railings, the, the gate, everything would be safe for the horses and the riders-- I think we could grant you a license. If you decide that you're going to put up \$3,000 for purses and going to have X amount of horses come in, I think you can do it. Again, I'm no lawyer. I'm no expert on those aspects. The chairman's here that definitely could answer much more of those questions for you. I'm not sure you couldn't.

GROENE: Thank you.

BRIESE: Anyone else? Question for you. Way back when, it seems like two hours ago-- maybe it was, I'm not sure--

TOM SAGE: Or longer.

BRIESE: --I, I heard the words corruption. I heard the words integrity, that this mechanism is ripe for corruption, integrity of the process could be jeopardized. And so I look at this, you know, it is kind of vague--

TOM SAGE: Yeah.

BRIESE: --you know, it doesn't really provide you with standards as to what you're going to do with these dollars, but you're given a lot of authority here under this language.

TOM SAGE: Right.

BRIESE: Are, are you confident in your ability to establish some fairly objective parameters that can keep most people happy as possible and, and ensure that people trust in the process?

TOM SAGE: I, I think I understand a little where that language was coming from. First of all, if we become the custodial of the fund, we're absolutely prepared to do that. That's not an issue. I do think the vagueness of the language, by indicating that independent people could come in, you know, I've heard others indicate, well, that could bring-- you know, X, Y, Z could come to a commissioner and say, here, here's \$5,000 to vote my way. Maybe that language says that. I would hope that those aren't the type of people we have right now on our

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commission or in state government. I really kind of take offense a little bit to that language, but I suppose the, the perception could be out there, Senator Briese, that it could, you know, be an issue. Whether we would adopt some policies with, you know, your guys' help or the AG's help, we probably can, but I, I, I kind of get, get where they're coming from, although I take offense to it also.

BRIESE: OK, thank, thank you. Seeing no other questions, thank you for being here today. Thank you for your testimony.

TOM SAGE: Thank you.

BRIESE: Any other neutral testimony? Good afternoon and welcome.

DENNIS LEE: Good afternoon. Senator Briese, members of the committee, my name is Dennis Lee and Tom Sage just mentioned the chairman of the Racing Commission and so I, I thought I'd come up. I, I didn't really intend to speak on LB536 today, but I think it's important that I clear some things up. And Senator Wayne, you, you prompted me really. There are-- the Nebraska statute, which is in Chapter 2-1201 and beyond, essentially requires that any racetrack has to be a nonprofit association. So I think you had mentioned about maybe a company or some investors getting together and at least with the Nebraska system as we have it now, that's not a legal viable option. For example, Grand Island, you've heard testimony today about Fonner Park. Grand Island is the Hall County Livestock Improvement Association as its nonprofit. Columbus is the Platte County Ag Society, I believe, and Horsemen's Park in Omaha and Lincoln Race Course here in Lincoln is the Horsemen's-- well, Omaha-- OER, Omaha Exposition and Racing, is a nonprofit, as is the Nebraska Horsemen's Benevolent Protective Association, as is the Nebraska Thoroughbred Breeders Association. We also have one quarter horse track and since I arrived today, I haven't heard any mention of, of the track. So it's the-- it's in Hastings. It's the Adams County Fairgrounds and, and that is also a nonprofit. So every year, the licenses that the commission issues are valid for one year, from January 1 to December 31, and then each of the racetracks have to reapply for a new license. Let me use Fonner Park and, and Horsemen's Park as an example. And I think, Senator Groene, you mentioned this and I want to follow up on that. Each of our tracks initially have to submit a license for a racing association to the commission. The applicant is the nonprofit association. If the commission favorably acts on that application, then a live racing

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app-- a license is awarded to that association. Subsequent to that, and sometimes simultaneously, the racetracks will submit their proposed racing dates for the following year, live racing dates. Generally, that happens in about October, November for the subsequent year. Mr. Newlin mentioned correctly that in the years that I've been on the Racing Commission, I can only think of two or three years where we had overlapping days and it was during a time period back in the last century when the grandstand at Lincoln fairgrounds was being remodeled and some work was done on that facility. Generally speaking, though, when the racetracks submit their license applications, they get together ahead of time and we haven't had any overlap. We have to have our magic number of 52 racing days and that magic number is needed because in order for any of the tracks to simulcast the following year, there has to be the minimum number as mandated by the statute. The next issue is going to be the simulcasting license and there's been some discussion this morning or this afternoon now about the simulcasting. Once a racetrack has received its racing license for its live racing days-- and this applies to Hastings as well and Hastings races one day generally-- they then apply for a simulcast facility license and that also runs until December 31. That license gives them the authorization by the state agency, the Racing Commission, to be able to send their live signals out to various portions of the country where they have simulcasting contracts.

BRIESE: For purposes of--

DENNIS LEE: It also allows them to get signals. I'm sorry.

BRIESE: For purposes of consistency here, I'm going to have to ask you--

DENNIS LEE: I understand.

BRIESE: --to wrap up fairly quickly.

DENNIS LEE: No, and I just-- I wanted to clarify that as related to the licensing and, and who can be a racetrack, so I'm happy to answer any questions.

BRIESE: Very good. Thank you. Any questions? Senator Lowe.

LOWE: Thank you, Chairman Briese, and thank you for being here today and explaining some of what we're going through. It was said earlier

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that a racetrack has to be 50 miles apart from another one for the
simulcast. Grand Island and Hastings, are they 50 miles apart?

DENNIS LEE: They are not, but that's a good question. I didn't touch
on that. Hastings only simulcasts quarter horse racing. Fonner
simulcasts thoroughbreds only, so there's a distinction in breed. And
so the statute does not prohibit Hastings from having a quarter horse
simulcasting license, Fonner Park from having a thoroughbred
simulcasting license. You won't see it in reverse.

LOWE: So if Senator Wayne wants to put up a quarter horse track in, in
Omaha right next to the other Omaha track, that would be fine and he
could simulcast there?

DENNIS LEE: As long as Senator Wayne had a nonprofit organization--

LOWE: I'm sure he could find one.

DENNIS LEE: --as the licensee.

WAYNE: I got one.

DENNIS LEE: I'm not sure if he--

BRIESE: Thank you, Senator Lowe.

DENNIS LEE: --it, it would serve him well, but parking is a problem
right now.

BRIESE: Senator Groene.

DENNIS LEE: Senator-- yes.

GROENE: So have you driven it or taken a tape measure and measured
from Omaha to the new location of the racetrack in Lincoln versus
where it's at in south-- west Lincoln now?

DENNIS LEE: No, we did not take a tape measure, but part of our
process at the Racing Commission--

GROENE: Is it going to be 50 miles is what I said.

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DENNIS LEE: It, it, it is in excess of 50 miles was what the evidence
was submitted to the commission at the time we considered the
application for the license of that facility.

GROENE: As the bird flies or as, as you drive it?

DENNIS LEE: You know, Senator, I have to go back and look at the
record to identify what that was. I know that was the evidence that
was submitted to us at the hearing. I don't remember where it came
from. It's been several years.

LOWE: As the bird flew.

BRIESE: Thank you, Senator Groene. Anybody else? Seeing no other
questions, thank you for your testimony, Mr. Lee.

DENNIS LEE: Thank you, Senator.

BRIESE: Any other neutral testifiers? Seeing none, Senator Aguilar,
would you like to close? And received, received no letters relative to
this.

AGUILAR: Thank you, senators. Senator Wayne, I think you hit the nail
right on the head. There is a conflict of interest in my mind at
least. And could you start a racetrack? I doubt it, not if you got to
fight the HBPA, who owns two racetracks, and you'll be competing with
them. I doubt that you would ever get approved. That being said, I'd
like to remind everybody we asked for the State Racing Commission to
be the custodian of these funds and decide where to give out. I
certainly don't consider the State-- Nebraska State Racing Commission
ripe for corruption. I think that was a bad statement on somebody's
part. Thank you.

BRIESE: Thank you, Senator Aguilar. Any questions for the senator?
Seeing none, thank you again.

AGUILAR: [INAUDIBLE]

BRIESE: And that closes our hearing on LB536. My apologies to
everyone, but we're going to take about a 15-- 20-minute break.

BREWER: Please.

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BRIESE: We've been here since 9:30. We'll resume at 2:40.

[BREAK]

BRIESE: We'll get started then. Good afternoon everyone. Welcome to the General Affairs Committee. My name is Tom Briese. I'm the senator for District 41. I'm the Chairman of this committee and will be conducting today's hearing. We're here today for the purpose of conducting five bill hearings this afternoon. For the safety of our committee members, staff, pages, and the public, we ask that those attending our hearings to abide by the following procedures. Due to social-distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance and exit doors to the hearing room: entrance on my right, exit on my left. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reaches capacity or near capacity, the entrance door will be monitored by a sergeant-at-arms, who will allow people to enter the hearing room based on seating availability. Persons waiting to enter the hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the ability, due to the HVAC project, of an overflow hearing room for hearings which attract several testifiers and observers. For hearings with a large attendance, we request only testifiers enter the hearing room. We ask that you please limit or eliminate handouts. If you wish to testify in person on any of the matters before us, we ask that you fill out one of the green sheets of paper. The green sheets are located by the entrance. If you do testify, we ask you begin your testimony by stating and spelling your name for the record, which is very important for our Transcribers Office. The order of proceedings is that the introducers will be given an opportunity to open on their bills. Then we will hear the proponents, opponents, and neutral testimony. Following the

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testimonies, the introducer will be given an opportunity to--
opportunity to close. We ask that you listen very carefully to try not
to be repetitive. We do use the light system in the General Affairs
Committee. Each testifier is going to be afforded three minutes to
testify. When the yellow light comes on, you have one minute remaining
and we ask that you begin concluding your remarks. When the red light
comes on, your time has expired and we will open up the committee to
any questions they may have of you. At this time, I'd encourage
everyone to turn off or silence any cell phones or electronic devices,
anything that makes noise. The General Affairs committee is a
committee that is equipped for electronics. so you may see members
referencing their iPads, iPhones, or other electronic devices. I can
assure you, they're just researching the matters before us. At this
time I'd like to introduce our pages. We have Kate and Noah. Go ahead
and stand up, guys. Thanks for being here. Also like to introduce
committee clerk, Alex DeGarmo, on the far-- my far left end. And next
to me on the right side is our legal counsel, Lori Holman. At this
point, I'd like to have the committee members introduce themselves
starting on my far right.

ARCH: John Arch, District 14, which is Papillion, La Vista, and Sarpy
County.

CAVANAUGH: John Cavanaugh, District 9, midtown Omaha.

LOWE: John Lowe, District 37, Kearney, Gibbon, and Shelton.

BREWER: Tom Brewer, District 43, 13 counties of western Nebraska.

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

WAYNE: Justin Wayne, District 13, north Omaha and northeast Douglas
County.

BRIESE: And Senator Groene is absent right now. I'm-- I believe he's
going to be joining us later. At this time, I'm going to turn over the
hearing process to Vice Chair Senator John Lowe.

LOWE: Senator Briese, welcome to your committee.

BRIESE: Thank you, Senator Lowe. Thank you and good afternoon, Vice
Chairman Lowe and fellow members of the General Affairs Committee. I'm

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Tom Briese; that's T-o-m B-r-i-e-s-e. And I'm here today to present for your consideration LB560. LB560 clarifies some provisions and provides some parameters for the ballot measure approved by Nebraska voters to implement casino gaming at racetracks in our state. With their passage of Initiative 429, 430, and 431, Nebraskans have provided a clear mandate that they want casinos at racetracks and the property tax relief it will provide. It's our responsibility to ensure the will of the voters is respected and that's what this bill does. I do note that the rulemaking process to be conducted by the Racing and Gaming Commission will flesh out many of the details relative to these casinos and their operation. What this bill does is provide guidance on some key points, Specifically, LB560 first provides some additional definitions to the voter-approved language. It describes collegiate sporting events, the name of the commission, a designated sports-wagering area, an international competition, and that the Racetrack Gaming Act will be governed by the commission. One key point found in definitional Section 1 is clarifying that sports wagering is a game of chance that was approved by the voters in November and, as such, and under the provisions of the voter-approved act, it is to be conducted at these racetrack casinos and only at these casinos. To reflect the realities of today's commerce, the bill provides that sports wagering can be conducted with a mobile app or online, but our language clarifies what appears to be the intent of the voters: that sports betting can be participated in only from the facility itself. And we've provided that it must be conducted from a specified location within the facility. LB560 also prohibits credit card transactions for gaming and further provides a procedure whereby individuals can exclude themselves from participating in the casino games. This legislation also specifies various gambling-related offenses. It also prohibits betting on the participation or nonparticipation of a college athlete or an athlete younger than 18 in an Olympic event. These last items are patterned after some language from the Iowa statutes, but they're also in a category that it could be-- also be determined by the regulators and the rulemaking process. And as I indicated earlier, the rulemaking process will be very important to implementing this, and it's important that it be done in a timely manner. This bill allows the commission to bypass the Administrative Procedure Act and provide guidance for operators and participants through the issuance of directives. Again, this is simply an effort to give the commission this option in order to do its job here in a timely manner. The bill provides for fingerprinting and background

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checks for the licensee. It provides some measure of immunity to liability for questioning a suspected cheat or the-- or reporting to the authorities of such individual. Initially, it provided for the ability of the casino operator to detain folks suspected of illegal activity if such detention was reasonable. But after visiting with some in the industry, I understand that this provision is not really necessary, and I believe we have an amendment drafted to eliminate that provision. Don't have it with me right now, but that's an amendment that we will discuss in committee. I do note that this bill deletes some provisions of the initiative related to the creation and composition of the Gaming Commission. LB561, which is a companion bill to this bill, addresses this matter and combines the racing and gaming commissions into one commission, which we'll talk about on the next bill. Finally, the bill provides for a mechanism to enforce collection of any amounts owed to the commission by the licensee. It does so by providing for the creation of a lien on the property of the licensee in favor of the commission. And as many of you know, I have not really been a fan of expanded gambling in Nebraska over the years. But in November, the voters were given an opportunity to speak, and they spoke overwhelmingly in favor of the expansion of the casino gambling at the racetracks. The purpose of this bill is simply to clarify that and clarify some parameters for that expansion. And there will be folks coming behind me that are going to be able to answer a lot of questions on the rulemaking process and the committee composition and things of that sort. I believe Mr. Sage and Mr. Lee will probably be here and-- but I'd be happy to answer any questions relative to this. Thank you.

LOWE: Senator Brewer.

BREWER: Thank you, Mr. Vice Chair. When-- as we go in to take a look at the numbers, the memo from your office here where we crunch out, let's start with the Property Tax Cash Fund '21-22 and then '22-23, I assume it doubles just because you think it will-- it-- it'll take that long to build the facilities to allow enough gambling to-- to have those kind of numbers. Is that the idea?

BRIESE: That's my understanding. I'm thinking Mr. Sage and Mr. Lee will have a good handle on that, but it's going to take time to do this. The-- the rulemaking, the guidance provisions are going to take some time for them to do their work, and then the facilities have to be constructed also, and so it's going to be a work in progress for

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some time, I would say. And so that-- that higher number there, is that a-- is that going to-- reflective of full implementation of it? I'm guessing so. I don't know if it'll be beyond that. It probably grows from that number at some point. But, yes, it'll-- it'll take time to get this in place, and I'm guessing they'll have a-- have an idea of what the timeline might look like. I can only speculate.

BREWER: All right. Thank you.

LOWE: Senator Wayne.

WAYNE: So we heard today a lot about the industry, whether it's casinos, horse racing, etcetera, but it seems to be a closed loop. One of the things that-- we put a lot of requirements or any type of licensing. We do insurance requirements; we do all these background checks; we do everything. One of the requirements I would like to see, especially in light of today's testimony and previous hearings that we had, is to require that any operator license, that any operator, that they have-- or the person who's operating have a fair and open procurement process for all their operator license. That has to be a condition moving forward of any license because it just seems like you can't even get into the industry, so at least let the operating license be fair and have a competitive bid process. So I'm just saying that in order for me there-- to probably support and move forward with some of these things, although we differ on whether sports wagering is-- is gambling or not, I do think there has to be some type of open process to make sure that the public can see what's all going on and who's all running what and who's doing what. So I'm just-- you can comment. You don't have to. But I just-- kind of my thoughts after-- in light of today's testimony that--

BRIESE: No, I-- I appreciate your comments. To the extent we can drive the economic activity flowing from the construction and operation of these casinos to Nebraska businesses and keep that business in the state, you know, I-- I would support that. I-- I don't know that it's completely practical. You know, one example would be gaming machines. You know, do we have local people in the state that, you know, produce and sell gaming machines? I'm skeptical. Probably not is probably the short answer, I would say. But, yeah, to the extent we can accomplish that, I-- I-- I see that as a-- as an admirable goal.

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WAYNE: Again, and it-- it more has to come down to the fact that based off of previous testimony, it's almost impossible to get in. And so I think we should know who's operating and who's doing things and how they got it and at least have a fair, open, competitive bid process, just like we would for insurance and anything else as part of the condition to their-- to their license.

BRIESE: Yeah. And we also have-- and plus, we have to recognize that these licensees are going to be private companies. I would say, you know, the nonprofits are going to be contracting with these licensees to run it. And so, you know-- and we can-- and we can govern conduct, I guess, of private individuals at times, but we have to be a little cautious doing that.

WAYNE: Correct.

BRIESE: But I-- I understand your goal there, and it seems like a reasonable approach.

WAYNE: Thank you.

BRIESE: You bet.

LOWE: Senator Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chair Lowe, and thank you, Senator Briese. And, you know, we've had-- you and I have had a couple conversations. I really do appreciate you taking the lead on this. This is a really important, complex issue that we're facing right now, and I think it is really important we get it right the first time. And I don't specifically have questions, but just things I wanted to put on your radar. In terms of the penalties, there are a number of things listed as a Class I misdemeanor, and I wonder about the culpability or the level of the offense being-- the fraud being a Class I misdemeanor on the same level as permitting somebody under 21 to gamble, whereas I think, under the current statute, if you allow somebody under 19 to play keno, it's a Class IV misdemeanor, and so just kind of, I guess, put that on the radar as a conversation for the future. The other thing is, I agree with you about the necessity for rapid movement in terms of the promulgation of the regulations. I do have a concern about not having it go through the-- the-- the Administrative Procedure Act. And so I-- I just want to make sure we think about

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having the-- I guess a release clause to make sure that that doesn't go forward forever without that kind of oversight. But also, have you checked to make sure we can even do that or we allow them to bypass the Procedure Act?

BRIESE: Well, it's my understanding the commission does that at times now. I think we, in certain areas of statute, we do provide the ability to bypass the APA. Now it can be subject to-- you're kind of getting at that too, you know, it can be subject to a challenge here and there, but-- but I think we'll probably hear from some other folks back there that might talk about the need to be able to bypass that. You know, sometimes the rulemaking process can take forever and then some, and-- and we don't want that to happen. You know, Nebraskans told us, well, they want this done, so I guess we owe it to Nebraskans to do it in a timely manner. And that's why that is put in there.

J. CAVANAUGH: Yeah.

BRIESE: And-- and perhaps, you know, we can delve into that a little bit with some of the folks back there. But as far as the misdemeanor, we put that in there just-- just to be consistent within this framework. But-- but clearly, you know, we need to make sure it's relative, you know, and reasonable. Those things are items that we can discuss, and I think the folks back there might have an idea on that also. And as far as some of these offenses, they could be prosecuted under other criminal statutes at a higher level, too, if need be, I would think. But it's-- but you're kind of going the other way with it and maybe-- maybe Class I is a little harsh on a couple of these things in here. I don't know.

J. CAVANAUGH: That was just the easiest example and-- and--

BRIESE: Yeah.

J. CAVANAUGH: --generally I'm a person who's not going to negotiate for higher penalties.

BRIESE: Sure, yeah.

J. CAVANAUGH: But I-- I did-- some of them did jump out of these things that might require a higher penalty too. I'm just not going to bring it up.

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BRIESE: Yeah, sure. Yeah.

J. CAVANAUGH: But thank you for your work on this.

BRIESE: You bet.

LOWE: Senator Arch.

ARCH: Thank you. I-- I just want to ask a question about sports-- about the sports gambling piece of it. So we've had bills in front of our committee, and I was here last year, on-- on sports gambling, sports-- yeah, it-- and the question, of course, was always, is-- is this a game of chance, is this a game of skill, and that was-- I'm assuming that the way this bill is written, it-- it clearly marks that this sports gambling is gambling, it is not a game of skill, and that-- that has always been kind of an ongoing debate, and I didn't know if you had any comments about that.

BRIESE: Well, that's always been my position, that-- that sports betting is a game of chance. That's-- to me, it's only intuitive, but that's just me. You know, it might be the others intuit-- they might say it's only intuitive as a game of skill. I look over at Senator Wayne. But-- but-- but to me, that-- that's the way I've always felt about it. And, you know, as of a few years ago, 46 other states considered sports betting as gambling, essentially a game of chance. And-- and finally, I do note the ballot language approved by Nebraska voters provides for games of chance at any of these casinos and defines games of chance as any game which has elements of chance, prize, and consideration, and to me, sports betting should clearly fall within that definition. To me, it's black and white, but others obviously don't-- not necessarily going to see it that way. But I-- I see it-- to me, it's clear that it is based on that, and there are some other items too. You know, under the Indian Gaming Regulatory Act, the regulations under that, they-- they provide that Class III gaming, you know, which is casino gambling, essentially, includes but not limited to any sports betting. You know, that's-- and that's not definitive of what we're doing here, but I think it's-- it's a fairly-- fairly compelling argument or makes for a fairly compelling argument.

ARCH: Thank you.

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BRIESE: You bet.

LOWE: Thank you, Senator Arch. Any other questions? Senator Briese, will you stick around to close?

BRIESE: I will be here.

LOWE: Very kind of you.

BRIESE: Thank you.

LOWE: Very kind. Judging the way that things went this morning, we're going to limit testimony to three minutes. So if you could adjust your opening testimony-- or your testimonies to three minutes, that would be very much appreciated.

LANCE MORGAN: Morning.

LOWE: Welcome to you comm--

LANCE MORGAN: I'm back again, the-- my name is Lance Morgan, L-a-n-c-e M-o-r-g-a-n, and once again, I'm the CEO of Ho-Chunk, Inc., a corporation owned by the Winnebago Tribe, and we've been involved in the Keep the Money in Nebraska and we've co-sponsored that with the Horsemen Association. So I have some people who are going to go into sort of detail, what they support about the bill, but I wanted to thank Senator Briese for-- for putting this bill forward. It puts in place a lot of important clarifications on some things. Something to understand is when we-- when we were putting this together, there were some problems. You know, you have to be very limited in what you-- in what you ask. You can only have one question or-- or it gets thrown out. And so there were some questions that we did not answer then. And one of the big ones that had come up repeatedly was sports betting over and over again. And we just basically were silent on it because it would have-- it could have been used in a way that was-- to throw it out, the single-question rule at the Supreme Court, so we just avoided the subject. But I think in Nebraska, I think the Attorney General has said three times that it's a game of chance. And in-- and-- and there's-- so I think there's an argument going either way on that. But we support the idea of making it a game of chance and-- and putting some parameters around the sports betting in terms of how it's going to be regulated and that type of stuff is-- is something we certainly support. You know, it's not something we sought out, but I

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think it's certainly-- it's been-- when we first started this process, sports betting, I think, maybe had just become legal, you know, under the-- some new federal law court case. And so when we put this together, it really wasn't a primary thought for us. But now you can see that it's become a huge business, especially in our neighboring state, and so it's probably something that should be addressed sooner than later. I wanted to make one more point. I-- I've heard Senator Wayne, who I-- who I've met on several occasions, talk about procurement and the district and things of that nature, and I think I understand what he's talking about. I am-- I am from that district. That's where I grew up. And-- and I run the company that's probably the largest minority business in Nebraska, and so we are 100 percent in favor of being inclusive. Now I do want to add, though, that we are still a company and we have to do what's in our best interest. But over and over again, we think inclusivity is-- is-- has always been something that we'd approach in our best interest. So I wanted to clarify that.

LOWE: All right. Thank you. Any questions for Mr. Morgan? Senator Brewer.

BREWER: Well, first off, Lance, I want you to know that I don't hold a grudge for the comments you made at the awards ceremony for the Chief Standing Bear Humanitarian Award. He received it after me and his comment was that he didn't know how special this was because the guy before him had killed people, but-- and I'll hold you to that. The-- the-- the question I have for you is over the break, the discussion came up about the issue of Ho-Chunk. Can you give us a kind of a one over the world? Ho-Chunk consists of what, how many parts and-- and what-- what is it that Ho-Chunk specializes in?

LANCE MORGAN: Well, Ho-Chunk was actually started in-- 1995 was our first full year and I was the only employee and it was in my apartment. And we started because of gaming competition in Iowa was passed and it hurt the tribes, Winnebago's casino operation. And, you know, 6-- maybe 18 months later, we laid off several hundred people and nobody cared. And so our goal has been to consistently build the company. We do construction. We do real estate development. We reinvest in our community over and over, not just our community, Omaha. Lincoln. We're the largest developer in the Sioux City area. We have a housing company, a housing-manufacturing company, real estate development, government contracting. We actually do stuff all over the

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world. We're in several different countries and we do things for the federal government in that area. And so we've become a company that's grown from myself to 1,500 employees. We had \$400,000 in revenue the first year. We had \$308 million this year. And so we've-- we're a rural Nebraska success story in a place that you would not have-- you-- you'd -- you would-- it would be the last place, the reservation, where you would write this story of coming. And anyone who's been through Winnebago knows what we're talking about. And I think that our goal is to reinvest in Nebraska. That's actually our mission. And so I think that this is going to be an opportunity for us to build, to create more jobs, and-- and we're not taking this money to Las Vegas. We're putting it right back into Nebraska. And so I think it's going to be something that we can all be proud of in the end.

BREWER: OK. Thank you.

LOWE: Thank you, Senator Brewer. Senator Wayne.

WAYNE: So what is your opinion on sports betting? Is it wagering or is it gambling or is it a game of skill?

LANCE MORGAN: If it was a game of skill, I'd be better at it. The-- I tend to bet my buddies and I bet-- bet for love, not skill. Anyway, I think that it's pretty clear it's a game of chance. I mean, I don't know how many times I thought I was going to win something and then did not based on the smallest thing. And so I think everybody-- most people think it's a game of chance. I understand there's been some bills out there making it a game of skill, and I think that probably made sense if there's a prohibition on game of-- on-- on-- on games of chance in the constitution. Calling it a game of skill is a way to authorize it. But it seems to me that this is also a way of doing the exact same thing. And so I'm not sure if-- if-- if that-- I think that debate's probably answered by this question.

WAYNE: So what about poker? What's your belief on that?

LANCE MORGAN: I don't know. I think it's considered a game of chance, and at least in the federal--

WAYNE: No, what you con-- what you consider it.

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LANCE MORGAN: I don't play poker so I don't-- I really don't have an opinion on it. But I'm-- I-- since everybody else considers it a game of chance, I guess I do too.

WAYNE: Well, most people consider poker game of skill, not a game of chance, and-- and-- and a game of chance, like you have no strategy when you flip a coin. It's-- it's truly up to the-- how the coin lands. But in poker you can choose to fold, so you don't ever have to lose a bet unless you're doing the big blind, so it actually is skill over chance. And I would make the argument, which I will later today, that-- that sports wagering is a game of chance. My-- my fundamental problem with sports wagering is you lock it into the casinos, so we're back to what we just heard earlier, being this closed market that only one-- one or a few people can participate in. So the local bar at Kearney can't ever participate and maybe earn some more revenue for their community because they can't participate when they watch Denver versus whoever. But we all know-- at the end of the day, we all know bets are being made. I mean, you can do it from your phone. And Senator Briese's bill limits it just to the horse racetrack, even electronically to the horse racetrack, so we're excluding everybody. And-- and-- I want you to respond, considering that although we both have different backgrounds, many of our struggles in our communities and many of the things that happened historically are the same. The industry itself is excluding people, and oftentimes your and my people have been excluded so, so many times, so why are we participating in it? Why are we not fighting for everybody to be able to participate?

LANCE MORGAN: Well, I had testified earlier today, and I said-- made a comment just a few minutes ago. When we put this together, our focus was primarily on-- on-- on introducing casino-style gaming at the horse tracks, and-- and that was it. And-- and this took years. In the interim, sports betting became a much bigger thing and-- and legal and became available in Iowa. And I believe Iowa, it's restricted. You have to be tied in some way to the-- to the-- to the casinos there themselves. And so this-- this is not-- this was not a plan of ours in any way, shape, or form. This is not our bill that we've introduced. The one we put in was silent on the issue. I think that what I had mentioned earlier is that it was pretty clear that Nebraskans wanted a limited form of gaming. And we've gone from that to like who can build a casino and-- and how can we put sports betting in every bar pretty quickly. And-- and I think that that's one of the concerns of-- of the opponents of these kinds of things. And so we've-- we were dead

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serious about putting some sort of limitation and measured approach to gaming and expansion. And-- and we've-- and we-- we advertised that and we said it for years and we're sticking to that. And so in the end, it's your decision, what you do and what you authorize. But--

WAYNE: So--

LANCE MORGAN: --we think that measured approach is the best way.

WAYNE: But for my community, you literally don't have to cross the river, right? You literally can go gamble in Carter Lake. You don't have to even cross the river. And you can actually place bets on your mobile device. Yes, you have to be tied to a casino, but you can do it from the airport in Omaha because of the geo-fencing, the way it works. So--

LANCE MORGAN: In-- in Iowa, you have to live in the state. I actually tried to do it just to see. And since I did not have an address that matches my driver's license, it wouldn't work. I was just curious how it worked.

WAYNE: Again, Carter Lake is in-- on Nebraska's side. You don't have to cross the river, is my point. So my community is feeling the effects, the community you grew up in, but in no way will we draw the revenue. That-- that's the issue. And-- and you said yourself, if it wasn't authorized by the constitution, you would support game of skills to make sure it could happen. And that's my point, that at the end of the day, the money's not flowing to the communities. It's not flowing to western Nebraska, which is what we heard Groene say earlier. But it's definitely not flowing to mine, but it's being taken from my community.

LANCE MORGAN: I think--

WAYNE: So-- so what are you going to do as a casino operator to make sure north Omaha benefits from the casino in south Omaha?

LANCE MORGAN: Well, I think that Omaha itself is a-- is a city and there's going to be a large amount of tax revenue that's going to go to the city of Omaha. And how they allocate it, I suppose, is part of the democratic process. In the meantime, we'll hire anybody and-- and-- anybody in Omaha or in the area to come work for us and-- and hopefully we'll get people from north Omaha to come work there. And

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I'm sure that we'll get customers from there too. I don't-- I don't think of it as a geographic, racial sort of dynamic and-- and so I-- because it isn't. It-- the-- the track is located in that spot and that's where it's-- it has to be.

WAYNE: But you do think in terms of geographic and cultural because you just touted your organization as being a minority business.

LANCE MORGAN: Yes, and I-- so I think that of all the entities who would do this, we would be the ones that would probably be the most inclusive imaginable. I mean, I've spent a lot of time going down and trying to promote the minority procurement programs in the city of Omaha.

WAYNE: Agreed.

LANCE MORGAN: And those were canceled. And I've been there and-- and-- and I was disappointed in that. And we were too big of a company to even participate, but I still took the time to go do it because I thought it was important. You know, we're a company that we rent townhouses to the Nebraska Urban Indian Health because that's a drug and alcohol treatment center. And what we're hoping is that-- we've always wanted to like provide job opportunities as a steppingstone for people who come out of those programs, so we live and breathe that issue. And so we're going to be as inclusive as possible. I don't know if what if we-- if we're going to be able to direct money to various parts of the community, but we're certainly going to do what we can to make sure as many people, as inclusive as possible. Our-- our company is as diverse as you can imagine a company being in Nebraska in terms of racial makeup and in terms of male-female sort of executive levels.

WAYNE: And I understand that. And I-- I-- and again, this is no way attack on you. I-- my frustration is that we are directing certain dollars to go to horse breeders, certain dollars to go to organizations. We heard a bill earlier today that's directing money to go to Lancaster Event Center. And I feel, again, north Omaha will be left out.

LANCE MORGAN: Well, I want to add something. We specifically-- when we drafted this bill, we wanted to make sure that a portion of it went-- stayed in the communities where the facilities were, because if the tax was-- went all the way up to the state, there's no guarantee that

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it would filter back. In Iowa, they have a small amount that goes into sort of charitable donations in other communities. And we-- I don't think we have anything formal like that, but we-- we certainly will contribute to everything we can in our own communities. And maybe that's the way to take some advantage of some of this stuff. But we put 25 percent of the money to go into the local city and counties so that the-- the governments themselves would benefit for it. We didn't allocate how that money would go. I've-- I sat here earlier and watched some people already sort of fighting over it. I keep thinking, I got to finance and build these things first before we start fighting over the money. But I certainly support using that money in an inclusive way as possible, and I would do anything I can to-- to repeat that. I-- I don't know why I wouldn't.

WAYNE: No, and I appreciate that. And again, this is-- you can look at my marijuana bill where anytime there's a new industry, I don't care what it is, I'm going to fight for equity. I want to make sure everybody's at the table. But it seems like even the partnership that was announced earlier this year on casinos, that it wasn't a very open process and I-- and-- and I have to be consistent when I advocate to make sure people who look like me are at the table and can participate. And I can't-- I can't be inconsistent because somebody else is a minority who might have got there.

LANCE MORGAN: Well, no, the partner-- the partnership that was done was inclusive, I guess, of us, I suppose. But anybody else could have done it, but nobody was willing to put the-- it was a substantial cash sum that was into this to make it happen, and highly risky, and there were multiple points of failure, including COVID, the certification process, the Supreme Court, the advertising. So anybody could have taken that risk.

WAYNE: I'm not talking about the petition, sir. I'm talking about the ability to run a casino.

LANCE MORGAN: Well-- well, you talked about the process itself, and we stepped up and partnered, and now Nebraska is going to be-- benefit from it.

WAYNE: So if I fund a petition, I should get the back-end contract?

LANCE MORGAN: I didn't understand what you're saying.

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WAYNE: So if I fund the petition, I should get the back-end contract?

LANCE MORGAN: Well, I think that--

WAYNE: I mean, because I did-- I did TIF. I mean, I passed a bill, this Legislature, but I don't have a back-end contract on it, and it's not because I'm elected. I just don't think the petition process equals a back-end contract.

LANCE MORGAN: Well, you're a politician who's elected by the people to represent them here, and we're a company who is trying to develop a business. And so--

WAYNE: But I think that would apply to anybody, right, would that, if you-- if you--

LANCE MORGAN: No, I-- I disagree with that. When you're a company and you invest this sort of risk-based capital, then you expect to be able to participate in-- in-- in-- in the capitalism portion of that. And there-- this also has the side effect of being highly regulated and-- and-- and will generate a large amount of tax revenue for the state. But it's a different-- it's not apples-to-apples comparison.

WAYNE: I understand. I appreciate it. Thank you.

LOWE: Thank you, Senator Wayne. Senator Brandt.

BRANDT: Thank you, Vice Chairman Lowe. Thank you, Mr. Morgan, for your testimony today. So just, I guess, for the record and for the people watching on TV, you are the licensed contractor for three locations, is that correct?

LANCE MORGAN: It's fairly correct. We-- we own the track in--

BRANDT: Yes.

LANCE MORGAN: --South Sioux City, Nebraska, and the Horsemen own the tracks in Omaha and Lincoln. And we have a development and management agreement with them to develop the gaming operations there.

BRANDT: So as such, your group will-- will develop the gambling operations in those three areas.

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LANCE MORGAN: Yes.

BRANDT: What do you see as a timeline, if-- if, you know, the Legislature does its job, COVID doesn't hit, we could get these passed out?

LANCE MORGAN: I think that some of it depends on this process here, because you have to have regulations, rules, and-- and those kind of things to be finalized. And if that were done fairly quickly, you can't borrow the kind of money it takes to do these without a license, so you have to have the regulatory system in place. So when that's-- as soon as that's done, we-- we'll get started, and the construction process itself is going to probably be at least a year. But, you know, designing these facilities and getting them permitted to be built is going to take several more months at-- at a minimum to get done. So they may-- actually, it may work out fine and hopefully with a little luck, late spring or sometime in the summer, we can get started.

BRANDT: So you-- you would actually put gaming tables in the existing facility at that opportunity?

LANCE MORGAN: Well, I'm not sure. You know, the construction in Omaha has to be a total remodel and so it would be almost-- it would be very difficult to do something on a temporary basis. Lincoln, you know, there might be some possibility to get going sooner there, on a temporary basis, as we built around it, but we're still in the process of exploring that. And we're really focused right now-- much more on the design and, and the permitting and the licensing and the financing part of this. We didn't do a whole lot because we weren't sure it was going to even get past the court and then we weren't sure it was going to pass. And the day it passed, it obviously has been very busy since then. So those-- these are major projects going all, all, all at once.

BRANDT: OK, thank you.

LANCE MORGAN: It'll be a while, just to answer your question.

LOWE: Thank you, Senator Brandt. Senator Wayne.

WAYNE: I was just looking-- I do want to clarify, July 1 of this year, you don't have to be an Iowa resident with an address. They did have a waiting period, which breeds the next question, would you be amenable to that kind of-- a two-year waiting period where you had to be at the

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facility, but then after that two years, you should be able to do it
from your phone anywhere?

LANCE MORGAN: Well, I think that in, in Iowa, the gaming operators are
all going to take a hit for that and large national companies are
going to take money from them. And so you're going to have, you know,
sort of a depletion of, of, of that and they also-- it's another way
for them to steal customers from Nebraska again and so--

WAYNE: You mean like Fan-- like, not FanDuel, but yeah--

LANCE MORGAN: DraftKings or something--

WAYNE: DraftKings? OK.

LANCE MORGAN: --something like that. So I think that, I think that
having the, the amount of capital that we're putting in to build these
facilities is substantial and figuring out some way to get a return on
that is, is pretty important from our perspective. And I think that in
the end, that's a call that's going to have to be made by the state
here. But as you mentioned, Senator Brandt, we're a year and a half
from even getting this built. We actually weren't sure that we would
even bring this up as a subject until next year because it was just
so-- we thought it would be controversial and we were not in a
position to, to do any sports betting anyway because the facilities
were not going to be built. But, you know, I think that the natural
progress of things may lead to much more of an open Internet thing,
but I don't-- after, after-- for two years saying we weren't going to
do that, I can't come up here in good conscience and say, all right,
let's open it up to anyone with a cell phone, you know? So--

WAYNE: Appreciate it, thank you.

LOWE: Thank you, Senator Wayne. If this thing moves quickly through
the process, are you able to get material at this time?

LANCE MORGAN: It's, it's-- material is surprisingly-- annoyingly
expensive. You know, we're in the construction business--

LOWE: Um-hum.

LANCE MORGAN: --and in the homebuilding business on many levels too.
And I think you can get the material, it's just the cost is, is, is a,

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is a major factor right now in these types of things, so-- but it's
available, but it's just expensive.

LOWE: All right.

WAYNE: I got a real simple one--

LOWE: OK.

WAYNE: --just because people who aren't in the construction industry--
and I'm, I'm in it too. How-- I mean the price of wood has just
tripled this year, so there's a lot of factors going into this and I
do appreciate it.

LOWE: All right. Thank you, Mr. Morgan, appreciate it.

LANCE MORGAN: Thank you for your time.

LOWE: We'll clean the seats off here-- the seat off here really
quickly.

LYNNE McNALLY: Good afternoon, Vice Chair Lowe and members of the
committee. My name is Lynne McNally. I'm the executive vice president
of the Nebraska Horsemen's Benevolent Protective Association,
otherwise known as the HBPA. L-y-n-n-e M-c-N-a-l-l-y, here today in
support of LB560 and we'll also be in support of LB561 when it comes
up. I, I won't get into a lot of them, but I would like to highlight
some things that, that we really strongly support. As Lance said, we
support all of these. We just didn't have the opportunity with our
initiatives to comfortably put them into the initiatives and be able
to overcome the single-subject rule. Obviously, that was a point of
contention and, and had a Supreme Court case over it, so we felt that
the risk was too great and that we were hoping on your goodwill to put
these measures in. I will say I'm breaking my own rule. I usually, as
a rule, never follow Lance Morgan. That's always a dangerous
proposition, but I'll get through it. One of the, the problems that
we've got is that currently when you wager on simulcasting, you can
wager at age 19. Casino gaming is 21 and so we just didn't see any way
around keeping those two competing age limitations, so we fully
support raising the gaming age to 21 across the board. Also, specific
crimes we didn't address in the initiatives and, and we support
specific crimes. We're open to whatever class you feel is appropriate
based on the criminal code elsewhere. We do think it's important for

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the Racing and Gaming Commission to have law enforcement powers because those situations arise where they do need to have that level of, of authority and the ability to impose liens, I think, is extremely important. The Nebraska Lottery, for example, has that ability right now through their division at the Department of Revenue. And so if child support comes up or something and, and you're a lottery winner, your child support comes out first and then they pay your award out. Or if you have back taxes, they take that money out first before you get your, your lottery award. So I, I think that would be very consistent with the way things are now. Also the, the prohibition against using credit cards for tokens or coins, we support that as well. So if you have any questions, I'll be happy to answer them.

LOWE: Thank you, Ms. McNally. Any questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chairman Lowe and thank you, Ms. McNally. For the lien question, just as a technical matter-- I've been to a casino before. You--

LYNNE McNALLY: Yes.

J. CAVANAUGH: --you win sometimes when you don't expect to--

LYNNE McNALLY: Um-hum.

J. CAVANAUGH: --obviously, and then you go and cash out.

LYNNE McNALLY: Yes.

J. CAVANAUGH: At what point does the lien come in?

LYNNE McNALLY: Well, if it's over, I believe-- you're going to get me. I think it's \$9,000, \$9,500, they issue a, a, a W-G form for tax purposes and I believe they do run your, your Social Security number to see if you've got tax obligations or things like that.

J. CAVANAUGH: So maybe I'm, I'm not paying close enough attention. Do we create-- are we creating a registry of liens that people would--

LYNNE McNALLY: I think it just says that, that the Gaming Commission has the authority to impose them.

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J. CAVANAUGH: OK.

LYNNE McNALLY: I think, I think that's the language, but Tom's coming up. I'm sure he can better answer that question.

J. CAVANAUGH: Thank you.

LOWE: Thank you, Senator Cavanaugh. Any other questions?

LYNNE McNALLY: I will tell you we have a, we have a problem with steel, steel availability that's slowing us down.

LOWE: There's a problem with all construction.

LYNNE McNALLY: Yeah. Thank you very much.

LOWE: Thank you. Welcome back.

CHRIS KOTULAK: Thank you. Good afternoon again. Thank you for having me. My name is Chris Kotulak, C-h-r-i-s K-o-t-u-l-a-k. I was born and raised in Omaha. I lived there the first 35 years of my life. I am currently the CEO of Fonner Park. I mentioned earlier in the morning I would circle around and talk more about that. I also got red-lighted last time, so I want to make sure I read my paper instead of coming off the script as I did last time. Then we can circle back if you have a question accordingly. We, Fonner Park, support and commend Senator Briese on his attempt to make sure the will of the people is supported and the gaming process is expedited here in the state. We believe that statutory guardrails are prudent and necessary so that the gaming industry in Nebraska is set up correctly and in accordance with our respect for the rule of law. I really appreciated Senator Wayne's repeated remarks about we are entering into a billion-dollar industry here and we can't be doing things willy-nilly and we certainly will not and we certainly are working on all those rules and regulations. This hearing is an example of that. We do have a concern with the credit provision outlined in Section 6. According to the gaming industry officials that we've been consulting, upwards of 15 percent, at least 15 percent of gaming revenue can come from third-party credit transactions. We have language that we have shared with Senator Briese as a committee-- the council, excuse me, that would allow for such third-party transactions. And we would ask the committee to carefully consider an amendment in order for our gaming operations to stay in a competitive environment with our surrounding states. Again, Fonner

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Park has not survived for 70 years because of reckless behavior or not being conservative, mindful or-- in fact, we've been miserly with our business practices. We must do this right. We have to do this right. We only have one chance and we have to allow ourselves to be successful. So that's what I have for right now and I, I welcome any of your questions. I do have experience in the casino gaming industry beyond just working at a racetrack that has a casino. I've done that a number of times, but I've also worked as a full-time executive casino host, which involved working with the credit department as well within a casino. And this matter, LB560, speaks specifically to the matter of credit cards at a racetrack or-- I beg your pardon, at a casino. Thank you.

LOWE: Thank you, Mr. Kotulak. Any questions? Mr. Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chairman Lowe and thank you, Mr.-- is it Kootalack [PHONETIC]?

CHRIS KOTULAK: I've been called worse. Kotulak

J. CAVANAUGH: Kotulak. I wrote it down, but-- could you elaborate on the-- this third-party credit transaction you, you would like?

CHRIS KOTULAK: Well, what is the norm in, in casino operations and certainly in the states that surround us, South Dakota, Minnesota, Iowa, Kansas, this-- these are the states that have gaming-- Wyoming-- is that if a cas-- a credit card is allowed, it is allowed as a third-party opportunity, much like if you were to go to a convenience store and if you needed a, a cash advance on a credit card, you could get that. And the casinos do not have any role in the administrating of who gets credit and who doesn't or the, the credit that is allowed. And matter of fact, it would be the third-party operator that sets the lines of credit or the person who holds a credit card, if that's the device we're talking about here. They can set their own limits as well, so that's one of the luxuries of having a credit card. It's also useful in measures of tracking for the IRS. Maybe law enforcement would use that as well and it's, it's also helpful for Title 31. There was a remark about how much-- if you had to go to the cage and cash out a certain amount that you would hit, a strata. And once you get to that level, then you have to follow the proper W-2 Gs and Title 31 so that the money is not-- it avoids money laundering as well. So these are all, all measures that are put in place with the use of a credit

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card. You would not use a credit card-- you wouldn't step up to any
sort of a gaming device, put the credit card in there, and be able to
play off of that card.

J. CAVANAUGH: So-- I mean, obviously, the hesitation about credit in
gaming is the potentiality to lose money you don't have, right? That's
what we're attempting to avoid, I assume. How does this not set people
up to put themselves in a really bad situation?

CHRIS KOTULAK: The use of a credit card in a casino environment-- and,
and I'm not being snarky here, please-- is-- could be just as much of
a pitfall as it is if you go online to go to Amazon or if you go to a
mall to go shop or if you go to a restaurant and, and maybe you should
stop ordering dessert. You know, it-- people can be excessive. They
have to be, they have to be responsible for their own behavior. Could
people use it in exec-- in excess? Absolutely. But it's also-- if-- I
mentioned about doing this right. If, if we can't have a casino
operator come in here without the use of this and they know they're
leaving 15 percent of their annual revenue on the table, we're not
going to get the optimum, we're not going to get the optimum property
tax relief that we're-- that 70 percent of Nebraskans who voted on
this wanted. And so we're not doing the best for our citizens of
Nebraska who voted for this because we're not getting optimum revenue
and we're certainly not allowing ourselves to have the optimum casino
operator and operations with 15 percent less of gross gaming revenue
or revenue that would go towards them.

J. CAVANAUGH: Can I--

LOWE: Yeah, go ahead.

J. CAVANAUGH: So-- I mean, I, I understand your analogy. I mean, one
argument, of course, is we are setting up a regulatory structure for
this and not for online expenditures, but two, one of the kind of
defining features of casino gambling-- and maybe this isn't what the
aspiration here is, but it's to create sort of an environment that
desensitizes people to further expenditure, right? It's a-- it's
designed to induce participation and so if we're-- if the objective of
casinos is to make people lose essentially-- in some sense, the, the--
their faculties so that they will spend more money, isn't it incumbent
upon us to make sure that there is a safety valve release that people
aren't going to go too far?

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CHRIS KOTULAK: Boy, I, I sure don't want to wade too much into the, to the mindset of casino operations, but I, I assure you, we don't want people to lose their faculties. When I worked-- every, every casino I've worked at, there has been-- well, every year-- I worked most recently of Remington Park. It's a casino in Oklahoma City and a racetrack in Oklahoma City. Every year, we had to go through training about how to recognize the problem gambler on the, on the casino floor, what to do. We went through training on how to detect if someone is attempting to money launder. There were all of these things that were safeguards, guardrails, if you will, for looking after our customer. We don't want to pulverize, pummel, or make anybody broke. We want them to come back and we want it to be a, a destination for people to come and enjoy themselves and recreate and, and have entertainment, hopefully a reasonable amount and not in an excess, Senator. And that's all part of generating revenue, wanting people to come back. And if we don't look after them, if they can't look after themselves, we can only do so much. And I know there's a number of people behind me. They want to speak against this and, and their philosophies on whether casino gaming should have been approved or not in Nebraska. Well, it got approved and now we're trying to do the right thing by Nebraskans by getting in positive regulatory measures. And I don't have all the answers, but that's what I have for you for right now.

J. CAVANAUGH: I appreciate it. Thank you.

CHRIS KOTULAK: Yeah.

LOWE: Thank you, Senator Cavanaugh. Senator Groene.

GROENE: Thank you, Vice Chair. So ATM machines that are in casinos--

CHRIS KOTULAK: Um-hum.

GROENE: --is that a bid process that they-- a bank comes in and says I want my ATM machine in here? Is that how that works or how--

CHRIS KOTULAK: I would expect so. I'm not a-- I've, I've never run a casino, so I don't know about that operation. But it would be just the standard of however-- if you had a-- we have a couple of ATMs at our Heartland Events Center, or at the racetrack as it is right now, and

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it was just through a negotiation with the, with the banks that were
involved there with that.

GROENE: So do you limit the fee? I mean, they use some pretty stiff
fees if you use an ATM-- not that I've done it-- ATM at a, at a, a
casino, so who limits that or sets that fee?

CHRIS KOTULAK: I would think the third party would. That-- because the
casino-- again, these would be third-party operators. The casino does
not make the decision on rates. To the best of my knowledge, it would
be X,Y,Z ATM.

GROENE: So the casino doesn't care. Bank comes in and says I'll give
you \$500,000 a year and another bank comes in and says I'll give you
\$200,000. You take the \$500,000 and you go down a road and you don't
care if that bank charges \$10 for an ATM fee.

CHRIS KOTULAK: I don't, I don't-- I'm-- I wish I could answer more
about that, but, but that would not-- that would be the casino
operator's decision and certainly they would get the-- their best
deal, I would guess. But the more the third-party operator takes out
of the credit card charge, the less that money could be used to buy a
Coke or play a, play a card game or a slot machine. So here again, we
wouldn't want any gouging of our guests. They're our guests. They're--
it's like if you have me come over to your house. You're not going to
have me come into your house and then rough me up. And that's the way
we feel about all of our guests is-- that's my practice as the CEO of
Fonner Park for people to come to a racetrack or our--

GROENE: But you're-- you think it's fine that they borrow money to
gamble because that's what a credit card advance is?

CHRIS KOTULAK: Yes, yeah. It's, it's-- I mean we've all been out and
about where we haven't had enough money and it's been terrific to have
an ATM nearby where you can get some, some money.

GROENE: But this isn't-- you're not talking ATM, you're talking credit
card.

CHRIS KOTULAK: But you could get cash advance off of credit cards.

GROENE: ATM, you have to have the money in the bank.

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CHRIS KOTULAK: Correct. Good point. You're right.

GROENE: Thank you.

CHRIS KOTULAK: Um-hum.

LOWE: Thank you, Senator Groene. Senator Wayne.

WAYNE: So can you give me a practice? And not necessarily your business in particular, but how does a felony conviction affect the ability to hire and what-- where a person could be placed in a company that deals with gambling based off of regs or based off of whatever?

CHRIS KOTULAK: Again, I'm not, not a casino operator, so-- but I have worked in a, in a number of states that have had casinos, Louisiana and New Mexico, Oklahoma, and they, they scrutinize that sort of behavior. That, that's the best I can say.

WAYNE: Because I was looking through the-- I'll-- you know, what? I'll wait till somebody else comes up who's familiar with the tracks.

LOWE: Thank you, Senator Wayne. Any more questions? Mr. Kotulak, you came from Oklahoma, from Remington Park. How long have you been at Fonner Park then?

CHRIS KOTULAK: I've been at Fonner Park for two years, but-- this go-around. In-- light-- a lifetime ago when I was 25 years old in the mid '80s, I started working at Fonner Park as a track announcer and so I worked there for ten years, moved to Louisiana, worked in the racing industry there, racetrack, California, Oklahoma, and here I am now. So that's how I have my background in horse racing and the small bit of casino that I have.

LOWE: Welcome back.

CHRIS KOTULAK: Pardon me?

LOWE: Welcome back.

CHRIS KOTULAK: Thank you.

LOWE: Any other questions? Thank you very, very much. After a quick clean, next proponent.

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BRIAN CHAMBERLAIN: We ready?

LOWE: Yes, go ahead.

BRIAN CHAMBERLAIN: [INAUDIBLE]. My name is Brian Keith Chamberlain. I am the sitting vice chairman of the Winnebago Tribal Council. Esteemed members of the committee, please accept our testimony today as formal support for the LB560 and LB561 on behalf of the Winnebago Tribal Council. As many of you know, the Winnebago tribe in Nebraska has long been a proponent of legalized gambling. Over the past 30 years, the tribe has attempted to reach a compact with the state of Nebraska on several occasions in an effort to build and operate a casino on our reservation lands in the northeast corner of our state. Those efforts were abandoned years ago after laying stagnant on the desks of numerous, of numerous governors. Instead, our economic development company, Ho-Chunk, Inc., picked the mantle and took the cause well, well beyond our borders. They took the question to all Nebraskans and Nebraskans have made it very clear this is what they want. To be concise, roughly two out of every three Nebraskans voted to expand gaming. We are keenly aware of the opportunities casino gaming will bring to the state of Nebraska and our tribe. Though we have made great strides over these past 25 years, Winnebago remains one of the poorer communities in our state. These bills, LB560 and LB561, will streamline the process to expand gaming in the state and more quickly, bringing much needed tax revenue, thousands of jobs, and much needed economic development, not just to our community, but to all the people of Nebraska. Like all of you, each member of the tribal council was elected by our people that we represent. As elected officials, it is our duty to carry out the will of those who vote as us-- who voted us into office, especially when they speak as clearly as was done with the initiatives this past November 3. As representatives, we all have a responsibility to do everything within our power to make life better for those we represent. That is why we support LB560 and LB561 as written and encourage you all to do the same. Pinagigi. Thank you.

LOWE: Thank you, Mr. Chamberlain.

BRIAN CHAMBERLAIN: A little off script with this Mr. Vice Chair, I am a two-term gaming commissioner with our tribe and I have 27 years direct operational experience in gaming. Some of the testimony that you heard is not necessarily the best way that a operation ought to be operated and if you have questions about that, I would welcome them.

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LOWE: Thank you very much. Senator Wayne.

WAYNE: Since I have the last bill, it doesn't really matter if I ask questions or not. So I'm stuck on this equitable thing and I, and I think I just want to make-- for the record so everybody's clear. I'm in favor of legalizing marijuana, but I will fight a bill on the floor if there's not an equity peace component to it, especially those who have been left out of the industry. And when I look at the Racing Commission's regs and the bills and the statutes around here, if you have a felony, you can be denied a license. That's a problem for me if we can't participate. So my questions of Mr. Morgan, my questions of everybody today isn't directed at anybody individually. I'm just-- I'm pointing out that the process is not open to everybody to equally participate. And what's more disturbing is that if you have a conviction of sports betting, i.e., maybe being a bookie, you can't participate in the industry at all. And that is the exact same thing I see on the marijuana side that leaves out many of the people in my community who have been over policed and many other things and I won't get into that. So I just want to make sure that's clear. But I do have a question for you, which is give me some ideas of how to run gaming better. You said that there were-- based off of your experience, not everything is the best way to do it. Give me some other ideas of how we should do it.

BRIAN CHAMBERLAIN: Well, what the tribe has done and what the tribe has proven since we began our operation in 1992-- I started as a blackjack dealer on January 3, 1993, and I worked my way through the property after finishing my education as well and then into the compliance and regulatory side and then the direct management that I spoke of earlier. So the ideas in general are basically to do what we've done, is create an opportunity that everyone can take part in. And the main way that that happens, of course, is through direct employment. As what Mr. Morgan stated earlier, I was in the gaming operation when the riverboats at the time opened in Council Bluffs. I literally saw the day after and what it did to us. And at the same time, with that, it comes back to the same thing. The way that the Winnebago tribe has done gaming and the way that it always will do gaming is to be entirely inclusive of all of the community members, of course, our own tribal members, because that's who we are and that's who we are voted in to represent. But it will include everybody within the communities that we occupy.

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WAYNE: Appreciate it, thank you.

LOWE: Thank you, Senator Wayne. Senator Groene.

GROENE: Thank you, Vice Chair. Sir, I keep hearing that you, you guys
are tied, the Winnebago tribe-- and I can't think of the "acronym"--

BRIAN CHAMBERLAIN: Ho-Chunk, Inc.

GROENE: Ho-- yeah, good operation--

BRIAN CHAMBERLAIN: Yes.

GROENE: --to the casino gambling, to the racetracks.

BRIAN CHAMBERLAIN: Yes.

GROENE: Is there any guarantee that the racetrack can't go out and
hire Harrah's to put up a casino? Why are you always mentioned?

BRIAN CHAMBERLAIN: Because that is the arrangement that we have with
them.

GROENE: I don't understand the arrangement that--

BRIAN CHAMBERLAIN: It's my understanding that Ho-Chunk, Inc., has
entered into an agreement with the HBPA or the horsemen, as we call
them, to operate the two metro properties and as what Mr. Morgan
stated earlier, we own the Atakad property outright.

GROENE: So--

BRIAN CHAMBERLAIN: The other operators are--

GROENE: So otherwise you wouldn't have put whatever it is, \$5 million,
\$6 million into the campaign if you would-- I-- the business deal--

BRIAN CHAMBERLAIN: Correct.

GROENE: --if you wouldn't have had that agreement ahead of time?

BRIAN CHAMBERLAIN: Yes.

GROENE: So Grand Island and Hastings and whatever the other one is--

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BRIAN CHAMBERLAIN: Columbus.

GROENE: --Columbus could, could go with Harrah's or anybody?

BRIAN CHAMBERLAIN: If they'd want to, but we have the direct knowledge
of what the market is in this area and I think it would be foolish for
them.

GROENE: Well they do too in Council Bluffs.

BRIAN CHAMBERLAIN: Yeah.

GROENE: I mean they're just across the river.

BRIAN CHAMBERLAIN: Yeah.

GROENE: So you have that locked up by a prearranged agreement with
those--

BRIAN CHAMBERLAIN: Yeah, which stemmed actually into, as what was
stated earlier, the ballot initiatives in order to actually get it
passed.

GROENE: So now will you hold the license or will the racetrack hold
the license?

BRIAN CHAMBERLAIN: It's my understanding that the racetrack will hold
the license.

GROENE: And then you will manage their--

BRIAN CHAMBERLAIN: Yes.

GROENE: --facility and actually build the facility too?

BRIAN CHAMBERLAIN: Correct.

GROENE: You will own the facility?

BRIAN CHAMBERLAIN: No, the facility will continue to be owned by the
partner. We are simply the manager.

GROENE: All right, thank you.

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LOWE: Thank you, Senator Groene. Any other questions? Senator Wayne.

WAYNE: Just a random thought, how do you have a contract when it's not
legal yet?

BRIAN CHAMBERLAIN: When what isn't legal?

WAYNE: How do you have a contract to authorize-- to operate casinos
when it's not legal? Like, the-- I'm attorney, in fairness, and any
contract for something illegal is, is void at this outset. How do you
have a contract for something that's illegal? Because we don't have
any implementation language.

BRIAN CHAMBERLAIN: Well, again, with that, I think that's probably a
misunderstanding of what the contract actually was.

WAYNE: OK, that's fair. I don't-- obviously, I don't have the
[INAUDIBLE]. Thank you.

LOWE: Thank you, Senator Wayne.

BRIAN CHAMBERLAIN: One final thing, Mr. Vice Chairman, I believe I did
not state. It's B-r-i-a-n C-h-a-m-b-e-r-l-a-i-n.

LOWE: OK, thank you very much.

BRIAN CHAMBERLAIN: Thank you, senators.

TOM JACKSON: Good afternoon. Thank you, Vice Chair, General Affairs
Committee. My name is Tom Jackson, T-o-m J-a-c-k-s-o-n. I'm one of
five board members of Columbus Exposition and Racing. I'm here to give
the support of LB560 and LB561. I'm going to open it up for any
questions you may have for the little guys in Columbus.

LOWE: Thank you very much, Mr. Jackson. Any questions? Senator
Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chairman Lowe. Since you're here, do you
guys have a plan for a facility?

TOM JACKSON: We've been working with our local leadership for the
last, oh, 90-plus days. We're developing with the city, county, and

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local leadership, a community project plan to really help boost
Columbus and surrounding with this opportunity.

J. CAVANAUGH: In terms of-- so you're here to support the, the
legislation. Is there anything in particular-- I mean, I guess we're
all new to gambling regulation in Nebraska. Is there anything in
particular that maybe is a specific problem to Columbus that we need
to make sure we're on the lookout for?

TOM JACKSON: Well, the problem lies-- I, I do believe, you know,
leveling off the age from 19 to 21 on LB561 is, is going to make
things critical. In Columbus, you can wager on horse races at 19, but
you can't go into a bar and drink. You can't even have a drink of
alcohol at the, at the racetrack. So taking it to 21, I think, is a
very good step. As far as, you know, all the other comments
previously, we're in support of, of this compliance-driven program to
make sure the regulations are done right.

J. CAVANAUGH: Thank you.

LOWE: Thank you, Senator Cavanaugh. Senator Groene.

GROENE: Thank you, Vice Chair. Have you been approached by any other
operations--

TOM JACKSON: Yes we have.

GROENE: --Harrah's and-- I can't think of the other ones, but that's
the one that comes to mind.

TOM JACKSON: Yes, we've had-- we've been approached by multiple.

GROENE: And you're, you're looking at what the best interest and the
best contract you can make for their community?

TOM JACKSON: Yes, that's exactly how I would put it.

GROENE: So the last testifier made it sound like you guys have come to
an agreement already, but that's--

TOM JACKSON: We have not.

GROENE: --I don't think everything's in play yet.

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TOM JACKSON: Columbus is still working through our, our local leadership to develop a program that will best benefit Columbus. We've done enough studies that have shown tens of thousands of people that drive through our town to go to Iowa to have that entertainment value. We're trying to capture that-- those people and, and bring it back to Columbus, make it a destination, and, and also keep the money here in Nebraska to benefit the community.

GROENE: Thank you.

LOWE: Thank you, Senator Groene. Any questions-- any other questions? Mr. Jackson, thank you very much.

TOM JACKSON: Thank you for your time. Great.

BILL HARVEY: Members of the committee, my name is Bill Harvey, B-i-l-l H-a-r-v-e-y, and I'm general counsel for Big Red Keno. Big Red is a Nebraska company that operates the voter-approved keno games under the Nebraska County and City Lottery Act on behalf of various counties, cities, and villages. Over the last 30 years, keno has become an important and reliable source of revenue for communities large and small across the state. I'm here today in support of LB560 and I have a request for an amendment to the bill. LB560 allows players to make sports bets with mobile devices while on the premises of a casino. The amendment we are asking for would simply provide for a level playing field by allowing the sub-- same technology for keno wagers, mobile play while at a licensed keno premises. You would have to be at a licensed keno location to place a mobile wager on keno, just like with sports betting at the new casinos. Nothing else about the keno game would change. The amendment would simply allow mobile keno betting as another choice for players alongside traditional paper, paper tickets. We already have a mobile app for keno with thousands of registered users, which allows players to see game results and check and monitor their tickets. But customers are asking for more and they want to be able to use their phone to play keno, just as they will be able to do for sports betting at a casino. We've drafted a short, simple amendment that would accomplish these goals, basically making conforming changes to the County and City Lottery Act parallel to the changes you're making to the initiative in LB560. We would be happy to share that amendment language with the committee and work with committee counsel on this. Thank you for your time and for your

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consideration of this issue. I'm happy to answer any questions you
have.

LOWE: Thank you, Mr. Harvey. Senator Brandt.

BRANDT: Thank you, Vice Chair Lowe. Thank you, Mr. Harvey, for
testifying today. Is this currently being done in other, other states?

BILL HARVEY: You know, that's a great question. I'm not aware of it
being done in other states, but I'm not aware of any other states that
have a keno game like Nebraska does. The Nebraska County and City
Lottery Act is actually a unique statute nationally. So cities and
counties each having their own keno game, there really isn't a
parallel for it. The only parallel in other states is really state
lotteries that have keno as an aspect of the state lottery. And to the
extent that those, those-- some of those lotteries do allow mobile
play, but I, I don't know the extent of that or to the extent that
would involve keno.

BRANDT: And then the, the second part of the question is a technology
question. How do you ensure that your phone only picks that app up
inside the walls of the designated keno space?

BILL HARVEY: Another great question. I-- there is a, a tremendous
technology called geo-fencing--

BRANDT: Yeah.

BILL HARVEY: --where you can limit that. And it's the same technology
that's in the bill for the casinos to limit it to that location.

BRANDT: OK, thank you.

BILL HARVEY: Thank you.

LOWE: Thank you, Senator Brandt. Senator Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chairman Lowe. Thank you, Mr. Harvey.

BILL HARVEY: Yes.

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J. CAVANAUGH: If, if you were to-- if this were to go into effect and we were to have-- however-- you're sitting at a bar. Would I have to have any interaction with another person to play keno on my phone?

BILL HARVEY: The, the, the vision is that you would not. The vision is that you would actually just be able to go into a location, be able to access that mobile app because you're at that location, and you'd just be able to play. But the thing is the system would recognize that you were at that location, at that, at that bar. So the nice thing is the, the satellite locations and the main location, they would get their share of that, of that revenue as well. So it would benefit, you know, businesses across the state.

J. CAVANAUGH: And how-- and can you use a credit card or would it be a debit card on your phone?

BILL HARVEY: We would propose exactly the same thing that they're talking about for the sports betting, so no credit cards. But the other forms of payment that, that are permitted in LB560, we would propose those be permitted for keno as well, just straight down the line parallel.

J. CAVANAUGH: Thank you.

BILL HARVEY: Thank you.

LOWE: Thank you, Senator Cavanaugh. Any others? Mr. Harvey, thank you very much.

BILL HARVEY: Thank you, Senator. I appreciate your time.

LOWE: Enjoy your day.

BREANN BECKER: Hi, everyone. My name is Breann Becker, B-r-e-a-n-n B-e-c-k-e-r. I am the president of Fair Play Park in Hastings. So I've heard-- it's been brought up a few times. I grew up rodeoing in the ag industry. My family farms. The main thing that-- why I am involved in this is my dad has put 20-plus years into running the horse industry, so-- especially the quarter horse industry. We went to Oklahoma City and spoke in front of the president and vice president at their banquet promoting quarter horse racing in Nebraska and that is our main thing that we would like to do. Currently, there's over 70,000 registered quarter horses in Nebraska, so I think the horse racing

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industry will benefit from this. We-- they ran Queen City Downs in Hastings from 1980 to 1992 and at 2000, my dad took it over and he put up all the money for all the purses. He's kept going every year and we're very fortunate that we're going to continue with quarter horse racing. So I support LB560 and LB561 and I'll take any questions that you guys have.

LOWE: Thank you, Ms. Becker. Any questions for her? Senator Groene.

GROENE: Earlier, we heard you only have one race a year.

BREANN BECKER: Yeah, because we-- without the revenue, we have not-- my dad has put up all the money for all the purses, millions of dollars since 2000.

GROENE: So you don't have pari-mutuel racing there?

BREANN BECKER: Not currently.

GROENE: So you, you have never set up for that?

BREANN BECKER: We have a facility for it, but no, we, we haven't remodel-- we're in remodeling process for that as well as the casino. And no, we haven't went with anyone either, like Columbus.

GROENE: Thank you.

LOWE: Any other questions? In one of the past bills, it was brought up that there are organizations that the, the RPB-- the HBPA is with the--

BREANN BECKER: Yes, sir.

LOWE: And what is the organization for quarter horses?

BREANN BECKER: It's the Nebraska Running Quarter Horse Association.

LOWE: NRQA?

BREANN BECKER: HA.

LOWE: HA. OK, thank you very much. Any other questions? Senator Groene.

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GROENE: It's a good question that you just kind of answered, but 70,000 quarter horses registered in the state and I know lots of my friends out in North Platte have quarter horses. Most of those are for show, aren't they or-- if you-- your horse that you use in roping is-- might be a quarter horse or the one they use for barrel racing or whatever, but how many of them actually raise them to race?

BREANN BECKER: I don't know the actual number, but I know my dad is one of the people that races in Remington Park in Oklahoma City. I rodeoed growing up too. I was ranked nationally before I decided to focus on this. But why would you raise them in Nebraska if you're getting breed money in Oklahoma City? So that's why people are-- I guess, yes, a lot of them are being used to rodeo right now, but we're promoting the quarter horse industry to transform into racing.

GROENE: So that's the question. There isn't a big demand from breeders of quarter horses for racing?

BREANN BECKER: Not as the moment, but we're going to build it. That is our goal.

GROENE: Thank you.

LOWE: Senator Brandt.

BRANDT: Thank you, Vice Chairman Lowe. Thank you for testifying today. So I think I see what your game plan is here because the Nebraska Quarter-- Racing Quarter Horse Association is in sort of a dismal state of affairs, is that-- revenues from a casino would be used for the Nebraska breed project or, or-- it would, it would go toward the purses?

BREANN BECKER: Yes, yes, sir.

BRANDT: And then if everything worked out the way you hope it would, how many races would you be looking at?

BREANN BECKER: My goal is, like, a 30-day meet for quarter horses, which is going to be a huge number. I talked to people in Louisiana and other states that would be willing to come up here and race because that-- like, the purse amount will be increased and that is, like-- our goal is to bring the quarter horse racing and increase-- I grew up around it, so that's, like-- my main thing is promoting

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quarter horse races. And I go to UNK, but we've been contacted by, like, Colorado State and different places that they have an equine program to where they want their kids to-- like, they have programs with racing, so they even have brought it up about bringing that to the state as well.

BRANDT: So that-- on a daily basis, you'd be looking at seven, eight, nine, ten races?

BREANN BECKER: Yes, sir.

BRANDT: OK, thank you.

GROENE: Question.

LOWE: Yes, Senator Groene.

GROENE: How do you plan to compete with Grand Island? They're probably going to build a bigger facility than you for gambling. What are you, 20 miles from Grand Island, 25 miles?

BREANN BECKER: Yes, sir. We are 30 miles from Grand Island.

GROENE: So how, how do you plan to build anything but a steel building with some of these casinos that are-- and slot machines?

BREANN BECKER: Well, we're family owned--

GROENE: OK.

BREANN BECKER: --and I mean, we're going to do our best. We want to promote quarter horse races. If we can expand, I mean, I don't see why not. I-- my main goal is just for quarter horse races, so--

GROENE: Thank you.

LOWE: Thank you, Senator Groene. You go to UNK?

BREANN BECKER: I do.

LOWE: Do you belong to the Rodeo Club there?

BREANN BECKER: I didn't know they had one, honestly.

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LOWE: At one time, they did.

BREANN BECKER: I don't-- yeah, I didn't-- I don't know if they still do, but I'm a senior there, accounting major.

LOWE: All right, thank you very much, Ms. Becker.

BREANN BECKER: Thank you.

BRENDAN BUSSMANN: How is everybody doing today? For the record, my name is Brendan Bussmann, B-r-e-n-d-a-n B-u-s-s-m-a-n-n. I-- I'm a partner and director of government affairs with Global Market Advisors. We're the leading gaming and hospitality firm in the world. First and foremost, let me say it's good to be home. I'm originally from Nebraska, grew up in-- born and raised here in Lincoln, and happy to be before you today. I've submitted some written testimony already that goes over a number of things that I'd like to highlight. Very much a proponent of both LB560 and LB561, but I think there needs to be a little bit more meat on the bones and let me talk to you about a few things that need to be included in that today. First and foremost is understanding the feasibility of this and that includes not only what you're going to generate in tax revenue, but how it's going to impact your existing gaming product. There will be an impact on the lottery. There will be an impact on keno, especially in the local communities, and understanding that dynamic is very important. Secondly, suitability. Gaming licenses are a privilege. They're not a right. It's one you've got to earn. I have licensure in a couple of tribal jurisdictions based off of what my firm does for those and it's one that they go into an intense background search on this, understanding what I've done in the past, understanding my past history, financial records, all of those things. That needs to be included here in Nebraska as well. Three, the regulation. LB560 and LB561 provide the, the vehicle to start that regulatory process. Regulations, I have the privilege of looking at regulations from around the globe. I've got a call later on tonight on Japan regulations. This morning, I was dealing with India and some other Asia jurisdictions. Dealing a lot right now in the U.S., in the middle of my day, with sports betting. And it's, it's very incumbent to make sure that those rules are sound and attract the best operators and present to, to those that are part of the process, not only the operators, but the consumers, a fair game of odds. The regulatory body. Obviously, this deals more in LB561, but I want to highlight

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that getting people to the table is important over the whole scope of things. And fifth is consumer protections, making sure there are programs in place for responsible gaming measures, understanding where those dollars that are part of this bill will go to. As my time's running out, I want to highlight two quick things that are concerning to me about the bill. First and foremost is the, the fiscal note attached to this. If you're going to generate \$455 million in gross gaming revenue in the second half of the biennium, I'll sell you my oceanfront house in Vegas today. It isn't going to happen. This is going to take time. This is going to take a process. The most comparable jurisdiction is Arkansas, which is a mature market that has 1 million more people than Nebraska and generates \$426 million in gross gaming revenue in 2019. Sports betting, there's a lot of things in there with regard to sports betting. I wish Senator Wayne was here and I'd tell him it's a game of chance. It was license-- legalized under PASPA's repeal by the Supreme Court in May of 2018. And there's some specific provisions in there that I think you guys need to consider as part of beefing up those rules, especially as it surrounds college athletics. I know my time's up, so I'm more than happy to answer any of your questions.

LOWE: OK. Thank you very much, Mr. Bussmann. And you're in luck, Senator Wayne came back.

BRENDAN BUSSMANN: That's good. I look forward to his questions.

LOWE: All right. Senator Brewer.

BREWER: Thank you, Mr. Vice Chair. Just for the record, since he's back, you consider it a game of chance, correct?

BRENDAN BUSSMANN: Correct.

BREWER: OK, just for the record. If we go back to my discussion with Senator Briese when we first started, it's ironic that you, you brought up these numbers because I would, I would agree with you. For one, we're here in the middle of a discussion about when we're going to be able to start construction and then the duration of time to build it. And you might be able to stick a few machines in some existing spots maybe to, to get, you know, a few morsels. But in reality, we're probably a year out from seeing any significant amounts of, of income from gambling, is that--

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BRENDAN BUSSMANN: I think that's, that's more than a fair assessment. Obviously, you know, I know there's a, there's a timetable. At some point, something needs to be put in place. First and foremost is to get the commission to start, start that regulatory process. I know there's been some work put together and it's been mentioned here in the hearing today as well as, you know, since the initiative passed to figure out what those regs look like. My guesstimation, based off of other jurisdictions that have done this for casino gaming-- and I'll use Virginia as the example that just legalized casinos last April. Their casino-- their initial draft of casino regulations-- and they're-- they've been thinking through this process for some time-- their initial draft will be released on Wednesday of this, of this week, with the goal of having those in place in April of this year. And that's a full 12 months from the passage of being able to do that. Obviously, you guys need to kick that process in so that can initiate. That's what LB560 and LB561 are here to do. But I think at a minimum, that's where you get just to the point of having the regs in place. Then you have to go through licensure and suitability and then be able to go through, obviously on the local side, all the local zoning and planning to get these facilities up and going. So at best, a year. I see more of an 18-month to, to maybe two-year period to get this up and operational fully.

BREWER: I agree. When I saw the \$455 million, I was convinced that we had mixed some of our legalize marijuana with our gambling because that wasn't realistic.

LOWE: Thank you, Senator Brewer. Any-- Senator Groene.

GROENE: That brings up a good point that you brought about the money. Where are these gamblers going to come from? When Colorado did it, people flocked over to gamble and overwhelm the front range and when Iowa did it. I mean, anybody who wants to gamble is gambling. I mean, I do business in Dodge City, Kansas, and quite frankly, that place is empty if you go in there to have a good meal. Are we overoptimistic that there's all these new gamblers out there that are going to start-- I mean I, I heard Rosebud up there-- a gentleman-- I think that's what it's called, but Valentine is basically going broke. Nobody even shows up anymore. So really, this is a mature market. We're surrounded by casinos in every state around us, is that correct?

BRENDAN BUSSMANN: You have--

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GROENE: I mean--

BRENDAN BUSSMANN: Sorry, I didn't mean to interrupt.

GROENE: --what about Virginia? You got New Jersey nearby. You have gambling. What are their expectations?

BRENDAN BUSSMANN: Well, let me first address Nebraska and then I'll, I'll address Virginia here real quick. Yes, you are correct. You are surrounded by gaming. Kansas has casino gaming. Iowa has had casino gaming for 25, 30 years. South Dakota, while having tribal, also has Deadwood. If you go to Wyoming, you have-- probably the closest would be some of the HHR, historic horse racing, machines that exist just on the other side of the border. But then you've got Wyoming Downs and other places like that. Colorado also has casino gaming limited to the mountain towns that exist, the three that exist there. But now they have full-on sport-- mobile sports betting. So if you're sitting in Ogallala or Scottsbluff, all you have to do is drive over the river or-- or not the river, over the border and place a wager. With regard to Virginia, Virginia took a-- I'll call it a semi-thoughtful approach in looking at casino gaming. They first debated it in 2019. At the end of 2019, the legislature said let's do a study and look at what the opportunity is, as well as the impact on the lottery and other forms of gaming, looked at sports betting across the board. My, my reason why I say somewhat thoughtful, they limited it and said specifically here are the five locations, which were generated specifically off of economic development. Those five cities are Bristol, Danville, Portsmouth, Norfolk, and Richmond. They put nothing in northern Virginia, which is arguably where the money is over that. If you're sitting in the D.C. area, you can go across over to Maryland, over to National Harbor, where there's an MGM facility that you can literally see as you land at Reagan National. And so all of those people already have a casino. Granted, they probably won't necessarily make the trek all the way down to Richmond, which is about two hours outside of D.C., but some of them will, versus, you know, staying at National Harbor.

GROENE: So--

BRENDAN BUSSMANN: So to your answer, this is a mature market. You'll be recouping some of those dollars. Some of it-- gaming is also a local and a convenience thing. So those that maybe, say, are from here

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in Lincoln that maybe only would have driven up on weekends, maybe they go over, you know, on a Monday or Tuesday night because they have that off or something and they may, you know, garner some additional revenue that way. But even if you take into account the three Council Bluffs casinos, they generated for \$403 million in 2019. That didn't include sports betting numbers. Because of the pandemic and sports betting numbers attached, they're probably gearing towards about \$370 million this year, but those are three casinos that have been on the market for 25 years.

GROENE: Thank you.

LOWE: Thank you, Senator Groene. Senator Wayne.

WAYNE: So what's your definition of-- why does sports betting fall into gambling for you?

BRENDAN BUSSMANN: I look at it from the federal standpoint and how it's classified under Class III gaming. When they repealed PASPA-- PASPA being the law that was passed in 1992 that kept sports betting to the four jurisdictions that had it previously in place. When the Supreme Court overturned that decision, that allowed that to be back on as Class III gaming. And additionally, as you look at it-- and there have been some tribal jurisdictions-- New Mexico was the first to do this-- that because it was leveled as Class III gaming, they were immediately able to open based off of their compacts to create sports betting.

WAYNE: So you're basing it off of federal law and not necessarily how the game is played?

BRENDAN BUSSMANN: Correct, but I would also say-- I also believe there's a lot more chance in it than there is skill. Poker definitely is a game of skill. I will agree with you on that. But to the same extent, I think it depends on state law and how you look at it. No different than we've looked at daily fantasy across the way. In some states, it's chance. In some states, it's, it's skill.

WAYNE: So we-- so to divide-- to define sports betting as a game of skill is not out of the ordinary.

BRENDAN BUSSMANN: Right now, most jurisdictions are just going and legalizing it. They're not necessarily whether it's a skill or chance.

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It's based off their environment. And I will tell you, of the 29 jurisdictions in the United States-- and I say jurisdictions because D.C. has full legal sports betting and Puerto Rico is legalized, but not operational yet-- most of those went off of existing casino or gaming laws or through the lottery as part of, as part of a chance scenario.

WAYNE: So I, I appreciate that, but I didn't, I didn't get an answer. So if Nebraska were to say sports betting is a game of skill, it's not out of the ordinary.

BRENDAN BUSSMANN: I can't think of a jurisdiction right now, but there's probably a method based off of existing statute that you could do that.

WAYNE: Because fantasy sports across jurisdictions, which is sports betting, but not with dollars, is considered game of skill in some areas.

BRENDAN BUSSMANN: Well-- and I-- and I'll bring up that as-- I'm glad you brought that up because-- actually was an issue that came up recently. Having lived in Nevada for the last 16 years, Nevada saw daily fantasy back in 2015 through an, an attorney general opinion that worked for the gaming control board, now happens to be the gaming control board chair, that wrote the opinion that said game-- that daily fantasy fell under the gambling laws of Nevada and hence the reason why you had DraftKings and FanDuel have to take up and leave Nevada offering daily fantasy. And today, we don't do that based off of our laws, but we do have sports betting based off of chance.

WAYNE: So what would you consider BankShot?

BRENDAN BUSSMANN: Good question.

WAYNE: I usually ask just a couple of good ones a day so you just happened to get one of them.

BRENDAN BUSSMANN: No, no, no-- yeah, I'm pretty-- you've asked a lot of good questions. In fact, all of you have asked a lot of good questions that I will tell you, from the back of the room, I'm, like, oh, please, can you call on me because I have the answer here? I'd put BankShot probably under skill.

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WAYNE: So then did-- so--

BRENDAN BUSSMANN: And I-- here-- let me, let me take one thing. And this goes to one thing that's in the, in the legislation, which I, I have some issue with, which currently allows-- I can bet on Nebraska here based off of the legislation in LB560. I can't bet on Adrian Martinez's performance, OK? That is his skill and ability to do that. But my problem with all that-- and I know I'm shifting gears here a little bit, but I want to get this on the record. This esteemed body, a year ago, approved name, image, likeness, where an individual like that can go make money off of his name, individual likeness, yet we're going to protect him from not having wagers placed on him, but I can go bet on the Iowa quarterback? I can go bet on the Iowa State quarterback? I can bet on Kansas? It seems somewhat contradictory--

WAYNE: I, I'd agree.

BRENDAN BUSSMANN: --but the skill is in the athlete, not necessarily in my ability. I will tell you, as somebody that has studied this around the, around the globe, people tend to bet more with their heart than they do with their mind--

WAYNE: I agree.

BRENDAN BUSSMANN: --which, which makes people-- that, that makes it much more chance than sitting there, that, that I control the destiny off of what's going to happen like I do in a game of poker.

WAYNE: So then you would say investing, especially in the last two weeks' market, is, is just as-- game of chance too, isn't it?

BRENDAN BUSSMANN: I, I unfortunately don't have any money in GameStop right now.

WAYNE: I understand, but--

BRENDAN BUSSMANN: No, no, no, I would, I would agree with you that there are certain provisions that-- and I've said this for years and I know that, that one of the opponents of gaming in this state is Warren Buffett. He's been involved in one of the largest casinos that's ever been established.

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WAYNE: Thank you. Are you going to stay around for my testimony?
Because I think you're a proponent, you just don't know it yet.

BRENDAN BUSSMANN: Well, I, I, I hope to. I, I, I will tell you, I have
a client that I have to talk to at, at 6 p.m. in Japan that they'll be
really upset if I'm not on that call, so--

WAYNE: We won't be after 6:00, so we'll see you then.

BRENDAN BUSSMANN: OK.

WAYNE: Thank you.

LOWE: Thank you, Senator Wayne. Senator Groene.

GROENE: To clarify, why are you here? Are you a consultant or do you
manage casinos, your corporation?

BRENDAN BUSSMANN: So I, I will tell you, our firm does gaming,
hospitality, sports, and entertainment around the globe over a whole--
host of different things. I'm here because I'm a Nebraskan. I want to
see it done right. I want to make sure this is done right. I will tell
you as I go around the-- what--

GROENE: You grew up in Nebraska or you live here?

BRENDAN BUSSMANN: Yeah, grew up in Nebraska. I live in Vegas right
now, have for the last 16 years.

GROENE: So you're not representing your company as that you're going
to-- you--

BRENDAN BUSSMANN: I want to see good, sound policy developed.

GROENE: I still didn't-- I guess I don't understand.

BRENDAN BUSSMANN: OK.

GROENE: Do you manage facilities or do you consult on facilities?

BRENDAN BUSSMANN: So typically, we consult on facilities, but
occasionally my firm will place somebody in place to run the
operations of a casino on a temporary basis. So we understand
operation.

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GROENE: You're experts around the world on, on, on--

BRENDAN BUSSMANN: Everything and anything under the sun when it comes to casino, hospitality, sports, and entertainment.

GROENE: So the city of Columbus or whatever could, could, could contract with you for consulting. And what's the best way to do this for our size community, how, how big a facility, you offer all those kind of services.

BRENDAN BUSSMANN: Absolutely.

GROENE: All right, thank you.

BRENDAN BUSSMANN: Absolutely.

LOWE: Thank you, Senator Groene. Any other questions for Mr. Bussmann? Thank you very much--

BRENDAN BUSSMANN: Thank you.

LOWE: --and thank you for coming back to Nebraska.

BRENDAN BUSSMANN: Hey, always good to be back.

DENNIS LEE: Members of committee, good afternoon. My name is Dennis, D-e-n-n-i-s, Lee, L-e-e. I am appearing today as-- on behalf of the Nebraska State Racing Commission, where I serve as its chairman. Last week on Friday-- excuse me-- the commission had a regular meeting by Zoom and we covered-- we discussed each of these legislative bills that have been before you today and the commission-- I'm here to report that the Commission, on a 5-0 unanimous vote, voted to support LB560 and I can share with you very quickly some of the reasons why. The word "directive" was mentioned earlier today. The commission, like any other state agency, has an obligation and a duty and, and a process to develop rules and regulations under the APA. And our process sometimes, at least historically, as long as I've been on the commission over the last few years, it seemed to have gotten bogged down. And, you know, I'll give you an example. Some of these directives that the commission considers relate to public safety. There have been massive developments in the, in the safety industry, for example, jockey helmets and NOCSAE, N-O-C-S-A-E, approval, if you're familiar with football-type helmets. And the Jockeys Guild, who

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is essentially the organization in support of the jockeys, approached each racing jurisdiction in North America and asked and presented compelling evidence and testimony to-- at least to us and I'm sure the other regulatory agencies, as to the necessity to require these on not only just jockeys in horse races, but also exercise riders that may be exercising horses in the morning. So the commission adopted a rule after a public hearing. And of course, with that rulemaking process, it goes from the commission to the Attorney General's Office to the Governor's Office to the Secretary of State. And Mr. Sage can address this later more particularly, but I think the, the last batch of rules that we had adopted were somewhere in the middle of the bottleneck of that process for almost three years. And so in the interim be-- and I just gave you one example of the public safety issue with the jockeys' helmets, but-- so in the interim, the commission developed directives and the directives were like licenses. They became effective on-- as soon as they were adopted at the beginning of each year and they expire December 31. And the first meeting we had this year, for example, we, we renew many of the directives. And there's no dispute in the industry how valuable and important these directives are. Well, we, we, we ask that this be included in this legislation because probably a year, maybe a little longer ago, the Attorney General advised us that there was no lawful authority for directives and, and there wasn't in, in the statute. So this LB560 does have a provision on page 6 that authorizes the commission to adopt those types of directives. I see my time is up, so I'm certainly happy to answer any questions.

LOWE: Thank you, Mr. Lee. Any questions?

WAYNE: So--

LOWE: Senator Wayne.

WAYNE: I guess I'm talking process orientation-- or process right here. So if I wanted to build a track and I keep saying me because I don't have a track, nor do I have the land to do a track, but do I build the track before I get to talk--

DENNIS LEE: No.

WAYNE: --to you guys?

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DENNIS LEE: No.

WAYNE: So I can't even build the track without talking to you first?

DENNIS LEE: No, Senator. The, the rules of the-- adopted by the commission require that the commission approve the plans. So depending upon what happens in this body later this year, ultimately you've heard several references today to casinos and hotels. Ultimately, it will come before the commission for us to consider and approve those plans as it relates to-- similar to a racetrack, any of the racetrack-- and Lincoln being the most recent one that was built. Those plans had to come to the architectural design and, and all the plans related to that facility had to come before the commission for us to consider it at a public hearing. So to answer your question, if, if you wanted to develop a racetrack, then you would get the plans prepared and submit those to the commission for hearing at-- for a public hearing.

WAYNE: Do I follow a local building code or your building code?

DENNIS LEE: No, you'd follow the local building code. Our-- we don't have any code enforcement jurisdictionally. The commission would make sure that there's adequate security, adequate tie-in with regard to mutuel met-- the mutuel machines, the mutuel coverage, the protection, everything related to regulating the industry and maintaining the integrity of the industry and the positioning of various elements within the facility. For example, on a racetrack, we want to make sure that the steward's stand and the placing judge's stand is not 20 yards west of the finish line. It's on the finish line. We want to make sure there's communication between the money-- room and the mutuel room and the stewards and the other facilities within the, within the racetrack itself. Those are all regulatory issues that we as a commission, as the regulators, would address.

WAYNE: So then how many permits have you issued that didn't result in a license at the end of it?

DENNIS LEE: I can't think of any. There were times that a racetrack would, would come to us and we would, we would go out and investigate-- or staff would go out and look at the facility and look at the design plans and say, OK, where is the finish line camera? You

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know, should that be-- shouldn't that be right on-- and I'm giving a facetious example.

WAYNE: That's fine.

DENNIS LEE: I can't think of a time since I've been on the commission that we've denied a request for approval of plans for a, a racetrack or a facility upgrade.

WAYNE: So then theoretically--

DENNIS LEE: Um-hum.

WAYNE: --all the designs that are going into the casinos doesn't mean that they're going to get a license to operate a casino--

DENNIS LEE: It does not.

WAYNE: --because they haven't got permit-- they haven't even gotten permitted yet.

DENNIS LEE: My guess at that point is that they may not have even applied for a license with what's anticipated as the Gaming Commission.

WAYNE: So when I was reading this bill, it was a little unclear and this is kind of why I'm asking. Is there going to be a separate license from the track itself to the casino?

DENNIS LEE: I believe there is. Based on my read of LB560 and LB561 is that-- I mentioned earlier when I was testifying about the live racing license, the simulcasting license. And I think that's all part of what the legislation that you're, you're considering today and how it ends up being in the final product and also our regulations that the commission may consider. But I would foresee, just-- and I'm just talking as myself now. I'm not talking as a racing commissioner. I would see that we would have a separate gaming facility license because there's a \$1 million license fee that's proposed in LB560 for a gaming facility license. And, and I believe part of the reason that that's such a hefty license fee is that there is going to be an incredible amount of background investigations with regard to the principles of who that license application is. That's all going to take time, energy, and, and finances.

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WAYNE: Which brings me up to the investigation point, brings me to my next question. When I was reading the regs, if you have a felony, you can't be an owner?

DENNIS LEE: I'm sorry?

WAYNE: If you have a felony, you can't be an owner-- a licensee, I mean? You can't have a license?

DENNIS LEE: No, I, I-- on our line-- the short answer to your question is no, all right?

WAYNE: No, you can't or--

DENNIS LEE: You can be.

WAYNE: OK, you can be.

DENNIS LEE: Here's, here's what the distinction is. If you-- and, and I can have our staff submit to the committee subsequent to this, a copy of our standard racing application license, which is a variety of categories, including owner. There are several questions that ask have you ever been convicted of a felony? If yes, explain. We fingerprint everybody now and have been for quite-- many years. There are times we get a fingerprint report back that shows that an applicant failed to disclose several convictions or if they're still on probation or if they've had a violation-- a VOP charge that may be pending. Those are things that then come up to the level of the investigative staff of the commission and, and our administrative staff to determine if that should come before the commission as to whether that individual-- but I know, I know for-- when I was back as the attorney for the commission and doing a lot of the investigations years ago, that there were people that we found out through fingerprint reports had not disclosed X, Y, Z charges and not necessarily charges, it's convictions. And, and we talk to them and give them an opportunity to submit an amended application. A lot of it depends upon duration of time. Since the conviction, have there been any other issues? Just the normal things that you would look at as a due diligence of a regulator.

WAYNE: So you heard a lot of my questions, comments--

DENNIS LEE: Um-hum.

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WAYNE: --regarding a billion-dollar industry. Obviously, we probably won't have \$1 billion because as everybody pointed out, there's market saturation around us. But how do we make sure-- what will you do to make sure it's inclusive, that, that the, the industry itself is more inclusive? What ideas have-- has your organization talked about to make it more inclusive?

DENNIS LEE: Well, at this point, the commission-- there's nothing before the Racing Commission at this point. But I, I can, I can share this with you, Senator, that the commission is a regulatory body, much like the Department of Motor Vehicles. Might be a silly example, but that's one that comes to mind because I just registered my car this weekend. But the, the DMV determines if a driver's license should be issued, if, if there should be a, a late fee on a registration. We do the same thing, but in a different industry. We, we regulate the racing participants, the licensees. We maintain the protection of the public and the integrity of the, of the industry and the sport. From a standpoint of going back to your example of, of a, a casino operation, when would they submit their application in relationship to their plans? One of the things that they would have to put forth in the application, I would think-- and the application hasn't even been minimally drafted yet, but I think to address your question-- and it's important thing for us to consider is-- not only as, as regulators, but also as, as citizens of Nebraska, is that we have a, a, an issue with regard to the interview process, the application process of a casino operator or a racetrack wanting to get a casino license for an operator to manage, would be how are they going to make sure that across the board, there's inclusion? And, and it's not just-- it's not something that-- really, I don't see the commission or the state actively getting involved in that because of our statutory limitations.

WAYNE: And again, I-- and this is something I probably should have said earlier, but, you know, I think part of the reason the, the horsing-- or industry in Nebraska has died out and probably died out across the, the country is it wasn't very inclusive. It was, you know, horseracing to me was the Kentucky Derby and it was certain folks who went there and most of them didn't look like me or come from my background. But I will say in Omaha, when I was invited out to the, to the track, it was actually pretty fun. And then the next day, we brought more people out there who paid tickets and, and they were,

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like, this is a different experience and it's kind of a fun
experience, so--

DENNIS LEE: I appreciate that because--

WAYNE: --and so I, I guess what I'm saying is I think as the
commission, that's part of also your duty--

DENNIS LEE: I agree.

WAYNE: --and I just wanted to put that on your radar and I think it's
important to me because I think part of the reason why Omaha is
growing is because there are get-- the horse track in Omaha is growing
is because there's a different crowd going who normally, at least when
I was growing up, watched one day and that was the end of it.

DENNIS LEE: We've-- I, I, I think there's been a big change in not
only the people that go to the racetracks-- and, and I'll, I'll
mention Omaha because you did and that's kind of my home base too. I
can remember back in the '70s when I worked at Ak-sar-ben and there
wasn't a urinal or toilet that I didn't clean during the course of my
job. But there was a different group of fans at Ak-sar-ben, you know,
you had whole different segments of, of the population. And I'm glad
that when you went out to Horsemen's that that was a very good
experience because it is. And for people that-- in the state to think
that racing is a Kentucky Derby-like atmosphere, it's far from it. I
can tell you back when we had quarter horse races in Deshler in Broken
Bow, that's long ago because those tracks have since closed, it was
far from a Kentucky Derby environment.

WAYNE: Thank you. I really appreciate it.

DENNIS LEE: Thank you.

LOWE: Thank you, Senator Wayne. Senator Groene.

GROENE: So you're the racing commissioner, right?

DENNIS LEE: I'm one of five.

GROENE: All right, a, a member.

DENNIS LEE: Yes, sir.

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GROENE: And now you're going to be overseeing casino gambling too?

DENNIS LEE: Depends on what happens with this bill, but I know with the initiative, the Gaming Commission would consist of the five-- senate-- or five commissioners and then two would be appointed for, for the Gaming Commission, two additional commissioners.

GROENE: So you-- maybe I'm overestimating here, but horse racing will be a little office on this side. The big bucks, the big headaches are going to be the casinos. You will, you will have to license dealers.

DENNIS LEE: Oh, I, I think you'll see-- yes, I think we have to license everybody now. We have to license a person that-- you want to go up and bet a \$2 daily double? We have to license that person at the mutuel window as a mutuel clerk.

GROENE: So you're going to have to have individuals patrolling basically probably in every casino--

DENNIS LEE: Oh, absolutely. Well-- and I'll, I'll share this--

GROENE: --employees too, won't you, walking the floor and making--

DENNIS LEE: Oh, exactly.

GROENE: --sure casinos are obeying the laws and paying out like they're supposed to?

DENNIS LEE: Right. Tom Sage, who is our executive director, will share with you a kind of a, a, a workflow, workflow chart. We have two employees right now with the Racing Commission and obviously, we could not do gaming with two employees. So Tom would be able to address that, but you're correct. Our, our staff would grow exponentially.

GROENE: So right now you have any-- nobody any-- anybody knows anything about casino gambling. You're going to have to hire folks from Vegas or--

DENNIS LEE: No, I, I don't think so. I mean, here's, here's the advantage that, that, that-- I think the Nebraska Racing Commission is unique in a lot of respects. I-- the Racing Commission is a member of an organization called Racing Commissioners International, which by saying racing is, is kind of not accurate. It's more racing and gaming

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because so many more states have gone on to the gaming avenue of this. But I was chairman of it 20 years ago, Mr. Sage is chairman of it now, and we've served on several committees. And really even before-- as soon as the ballot initiative passed, I know that Tom reached out to several states. And we have great contacts in other states that have racetracks and casinos. And so from a rule perspective, I think we've got a really good head start of adopting rules as it relates to gaming.

GROENE: So every machine that's used here, every roulette table, you're going to have to license the manufacturer. You're going to have to check all the slot machines.

DENNIS LEE: There will--

GROENE: How, how-- are you prepared to do all that--

DENNIS LEE: Well--

GROENE: -- and get-- be up and running in a year or so?

DENNIS LEE: Right now with two employees? Absolutely not. I mean, I, I know there's an Appropriations bill for, for-- with an emergency clause on it to give the commission \$250,000 as kind of a kick start, but--

GROENE: But you said earlier, you don't think you're going to have to hire established people that have a background in this, that you're going to have to go to Iowa--

DENNIS LEE: Oh, I--

GROENE: --or go out and find some, some employees--

DENNIS LEE: Right.

GROENE: --that can hit the ground running.

DENNIS LEE: I think that you can, you can hire and I think there will be people coming from-- that we will seek out from other states and other jurisdictions with gambling experience. But I don't think-- I think that's going to be the minimum because a lot of it will be, as I've seen in other states when I've gone other places with regards to

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personal or the Racing Commission, where a lot of the jobs at the high level are certainly specific background type, experience-type jobs. But as you go down that chain of command, it's, it's not as, as specific experience wise. I don't know if that answers your question or not.

GROENE: Well, I might be looking for a job here in a couple of years.

DENNIS LEE: So will I.

WAYNE: A bouncer.

LOWE: Thank you, Senator Groene. Any other questions? Mr. Lee, thank you very much.

DENNIS LEE: All right, thank you for allowing me to appear.

LOWE: Yes.

TOM SAGE: Good afternoon. I don't think we're at evening yet, are we? Vice Chair, senators, thank you for giving me the opportunity again to speak today. My name is Tom Sage, last name is S-a-g-e. I originally was going to come up here in the neutral status so I could answer any questions. But there are a few questions, I think, that were very important that came up through the testimony so far. The first one regarding the felonies, Senator Wayne, I really wanted to even expand a little further from Chairman Lee. Currently, the Racing Commission statutes say anybody with a felony within five-- or excuse me, ten years may be denied a license. I have established a policy for the commission and I'll be glad to share that with you. My investigators, if somebody comes in with a felony within five years, they're required to bump that application up to my level. From my level, I'm able to issue a license, issue a conditional license, a probationary license, a temporary license, or refer it to the Racing Commission for final action and that does happen at times. There's cases where it's a serious felony that I don't want to touch, that I'm not going to put my line-- my, my reputation and stuff out. I-- we present those. We do an investigative case, either myself or one of the investigators, then go in front of the commission, explain the parties there. You know, a lot of these people, it was a mistake, you know, and we grant them licenses or I should say the commissioners grant them licenses. On the gaming world, it's been pretty much 16 hours, seven days a week been--

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learned a lot about gaming. Most gaming statutes show no felonies. I understand your point, Senator Wayne, and, and I would hope that that's something maybe we could discuss and, and work through with regulations. On another, the mobile apps came up a little bit. The way I want to write regulations or am writing regulations currently is a mobile app you could use for sports wagering within the racetrack enclosure, but you would have to go to an information window, set up an account, fund the account-- not with a credit card, no-- so you couldn't just go sit down at the facility and use your credit card and start wagering as you can on some of these advertisements that we're seeing throughout the television network in, in Omaha. We brought up about racetracks and denials. Many years ago-- I'm sorry, do you want me to finish, Vice Chair? I-- probably two minutes--

LOWE: Somebody could ask you a question.

TOM SAGE: --two minutes.

LOWE: It's been a long day, so I'm trying to hold--

DENNIS LEE: I know, sir. I know. I'm good. Go ahead.

LOWE: OK, thank you very much. Any questions? Senator Wayne.

WAYNE: You have a-- you can finish.

TOM SAGE: OK. Thank you, Senator.

LOWE: Now we're legal.

TOM SAGE: In North Platte, many years ago-- I was fairly new to the commission, so we're talking 20, 22, 23 years ago-- there was an applicant that was trying to build a racetrack in North Platte. We did our due diligence and did the investigation. I don't remember exactly, Senator, what it was, but there was an issue, us, as the investigative staff said do you guys really want to have a public hearing? Well, they went away. So different licenses? Yes, there will be a-- and, and as I'm writing the rules-- and actually the licensing stuff is getting close-- you would have your racing license and then you would have your gaming operator license. So rules are well on the way. Anyway, I-- that's all I have. Questions?

LOWE: Thank you, Mr. Sage.

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TOM SAGE: Thank you.

LOWE: Any other questions? Nope.

TOM SAGE: Thanks.

LOWE: Thank you. Are there any other proponents? Opponents?

NATE GRASZ: Good afternoon, barely, members of the General Affairs Committee. My name is Nate Grasz, N-a-t-h-a-n G-r-a-s-z. I'm testifying on behalf of the Nebraska Family Alliance. We represent a statewide network of thousands of individuals, families, and faith leaders who challenge the establishment and spread of gambling due to its destructive impact on families, businesses, and communities. We are opposed to each of the two bills and the constitutional amendment before the committee today that seek to expand gambling in Nebraska by authorizing sports betting, including LB560. We are opposed to these proposals because they all serve to dramatically expand gambling, increase gambling losses and addiction, and expose children to harmful messages about gambling. The statement of intent for LB560 says it is enabling legislation for the law created by ballot initiatives 430 and 431 that were approved by voters. Unfortunately, this is not accurate. LB560 goes beyond just implementing the statute that was created through the ballot initiatives and expands it to add sports wagering. This is new language that was not included in the statute that voters approved. As you will see on page 2 of the bill in line 23, the term "sports wagering" is being added to the statute that voters implemented. If sports betting were already included, this addition would be entirely redundant and unnecessary. This change is adding new language that amounts to a dramatic expansion of gambling, not merely enabling legislation. I provided the committee a handout and I would draw your attention to the highlighted portions, which shows that the sponsors of the casino gambling ballot initiatives themselves and the people who will be operating the casinos have publicly and repeatedly stated that the ballot initiatives specifically did not include sports betting. Reading from an article from Channel 3 News, Omaha, quote, if the voters pass casino gambling in November, sports betting will still not be allowed. Organizers with Keep the Money in Nebraska hope the Legislature would then pass a bill allowing sports betting. And from Global Gaming Business Magazine, quote, all forms of Las Vegas-style gaming would be allowed except sports betting. The reason, said Lance Morgan, is, quote, Nebraska has limitations on how much you can

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authorize in one measure. Having sports betting in there created a risk. He added, quote, it could be made up later. Regrettably, due to the unnecessary attempt to further expand gambling by adding sports betting, we are opposed to LB560. And I do say regrettably because there are other sections of this bill that we strongly support. And I would personally like to thank Senator Briese for including in his bill-- prohibiting credit cards, requiring a self-exclusion list, and adding criminal penalties for underage gambling and other violations are all important and necessary additions that we are grateful to see in this bill. If the provisions attempting to add sports betting were removed, we would support the advancement of LB560. Therefore, we respectfully urge the committee to remove the addition of sports wagering before advancing the bill and allow Nebraska to get a proper hold on the massive expansion of gambling before seeking to further expand it. Thank you.

LOWE: Thank you, Mr. Grasz. Are there any questions? Seeing none--

NATE GRASZ: Thank you.

LOWE: Thank you very much.

TOM OSBORNE: Tom Osborne, T-o-m O-s-b-o-r-n-e, and I admire your endurance. I've been sitting here and you've been sitting here a lot longer than I have. So I am-- also am concerned about the inclusion of sports gambling. And it's been an interesting conversation today. I've heard a lot of people speak about money over and over again and whether there's a chance-- games of chance or games of skill and on and on. It's very obvious from the discussion that originally [initiative] 430 did not include or name sports gambling. So the question is why do it? The conversation has been about money, but no conversation about who gets hurt. And as you know, from having run an organization that mentored 11,000 kids last year, kids get hurt when there's compulsive gambling in the family. Divorce increases. Money that would normally go to groceries goes to gambling. Money that will go to rent, clothing, college education goes to gambling. And so it seems to me that ought to be a subject that would be considered because what I see as the greatest threat to the United States today is what's happening to our kids because half of them are growing up without both biological parents and they're getting all kinds of stuff thrown at them and they don't need one more thing to be thrown at them. The second thing I'd like to mention is this. I know that this

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restricts sports gambling to professional sports and I will guarantee you that it will not be long before it will be college sports because that's over in Iowa. And in Nebraska, much of the passion for gambling is sports. So the sports gambling dollar will be big. The gambling industry will come after you really quick and really hard to ensure that they get a piece of that. And so what you're doing is you're gambling on guys that are 18, 19, 20, and 21. And if they don't measure up to what some gambler thinks they should have done, social media will be all over them and it will be brutal. I lived with that thing for a lot of years. I used to get a whole box of letters, and they were pretty nasty, every time we lost one game. And I guarantee you with the setup today, it'll be pretty intense. And you guys don't have to do that. I mean, you can include it if you want to, but you don't have to do it. So I would really urge you not to do it, just for the sake of kids and young people. It's not the money. It's what's best for the state. And I think that's probably your charge primarily in the State Legislature is, is to do what's best for the overall well-being of the state and its children. So thank you for listening. Be glad to answer any questions you have.

LOWE: Thank you, Coach Osborne. And I saw the red light was on, but you have always liked red. Are there any questions? You must have done a good job. You stumped us all.

TOM OSBORNE: Thank you for listening.

LOWE: Thank you very much, Coach.

TOM OSBORNE: You bet.

LORETTA FAIRCHILD: I'd like to introduce myself before the light goes on, but it's not fair because nobody else did. Am I loud enough?

LOWE: Could you remove your face mask, if that's possible? We're having a-- it's hard to hear.

LORETTA FAIRCHILD: OK. No, I just need to get louder. I'll try. I am Loretta Fairchild, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d. I am a PhD economist. I grew up outside Chappell, so my heart is with rural Nebraska. What parts of LB6-- LB560 should be applauded, which should be removed, which additions will be most valuable for helping Nebraska's economy? You have fortunately heard a lot about this

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already, so I will try to be brief. I have several things I wish you'd let me add. The need for regulating businesses is a well-established part of econ 101. Public utilities in Nebraska have a strong reputation because they are well regulated and frequently subjected to public scrutiny. Banks in Nebraska are also highly regulated, in part because of lots of money, because lots of money flows through them. The new casino industry also deserves high-quality regulation. What that means is that it's important that you go ahead with the good pieces in LB560 that are based on that regulation, but the Nebra-- the sports betting simply doesn't fit. It's got to have its own separate regulatory bill. The whole point is that regulation comes out of the structure of the industry itself and the Nebraska base for sports betting is not yet clearly established. The structure of the two industries are very, very different and that's been talked about a lot today. So necessary regulations, since they come out of the structure, you cannot simply lock them onto what is happening for the casinos. So that's my main point, but I would like to be able to talk to you about separating the finance because of the timing. I would like to talk about some examples of why age enforcement is a lot trickier than it sounds like and there are some problems around that within this bill. But to close officially, if this committee-- please give your full support to LB560 as regulation only for casinos. Please don't do any vote trading around this issue. It is just too important. No industry likes to be regulated, but it is the duty of the state government to protect its people first. Thank you for all your efforts to be honest referees for Nebraska against the big money interests.

LOWE: Thank you, Ms. Fairchild. Are there any questions? Senator Brandt?

BRANDT: Thank you, Mr. Chair Lowe. Thank you, Ms. Fairchild for appearing today. You said you had some more to add about age?

LORETTA FAIRCHILD: Yes, I would-- thank you. I appreciate that. I'm thrilled that everybody's agreeing on 21. And that is very important, but the reason it's hard to make it happen-- in other words, what's in LB560 right now for regulation is really good goals, but it's really short on the how-tos. And you've heard that from other people and I really want the Legislature to put much more into statute because that is going to maintain quality and make sure the important pieces really get in there. Consulting with the industry is not the best way to come up with-- I will, I will have to email you separately. There's a

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responsible gambling council out there that is international, that is pulling together best practices and that's where the focus should be for regulation. OK, age in particular. Casinos around the world have age limits, but nowhere do they try to enforce them. Because-- why? Because bringing in the teens creates new customers for the future. So one way this happens, in fact, is that if the teen arrives accompanied by a parent, no questions are asked. Another case from a few years back involved an older teen who had been coming in alone after a while, losing so much money that he had put himself on the self-exclusion list. And there really needs to be that self exclusion-- things need to be in the statute. But so he put himself on the self-exclusion list. He shows up again a few days later and the casino still didn't exclude him. He marched in, had no trouble, no questions asked. There's evidence from the northeastern states that the teenage-- in the US, the teenage gambling addiction rates were at 7 to 14 percent, more than double what adult addiction rates are. Youth are much more susceptible to addictions. You all know about comorbidities. All of that happens for younger people in spades. The, the emphasis on construction is important, but for example, putting in these age restrictions needs to get into the construction phase, which is why it shouldn't be delayed or, as the financial regulation, could be actually.

BRANDT: OK, thank you. Yep.

LOWE: OK. Thank you, Senator Brandt. Any other questions? Seeing none, thank you for waiting all day to--

LORETTA FAIRCHILD: Thank you.

LOWE: --come and testify.

GLEN ANDERSEN: Good late afternoon, gentlemen. My name is Glen Andersen, G-l-e-n A-n-d-e-r-s-e-n. You know, I really don't have a lot to add to the conversation, but I would like to offer some observations from our meeting today. I think we've probably met with every representative, anyone involved in gambling today, everyone except for one and he's the most important person here. He's the one doing the gambling. The gambler has not been very well represented. What we know, what certainty we have is that the casino wins, the gambler loses, the government kind of breaks even maybe. Well, I'm crying in my beer here because it's all over, I guess. But let's try

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to avoid as much problem as we can and avoid the sports gambling. Get
that out of this bill. Thank you.

LOWE: Thank you, Mr. Andersen. Any questions? Seeing none, thank you
very much.

PAT LOONTJER: Senators--

LOWE: Good afternoon.

PAT LOONTJER: --my name is Pat Loontjer, L-o-o-n-t-j-e-r. I'm the
executive director of gambling with the Good Life for the past 26
years and it's been a long day. 2020 was a very difficult year for
many reasons. It was especially disappointing for gambling with the
Good Life. It was the end of 25 years of successfully stopping
expanded gambling in Nebraska. We had worked so hard for so long only
to see our constitution changed and our good life changed forever. I
truly believe that the voters were so desperate for any form of
property tax relief-- and we've heard that today that, that the
opponents will admit that 70 percent of the people voted because they
thought they were desperate for property tax relief. They fell for the
lie that \$6 million of false advertising told them. I don't believe
they had any idea the ramifications of that choice. The day after the
election, the Winnebago tribe Ho-Chunk-- Lance Morgan publicly
admitted that they had made a deal with the horsemen. They would pay
for the campaign, providing they got to run the casinos. They came out
and said that they had \$300 million. They were going to build the
first of three casinos: \$100 million in Omaha, \$100 million in
Lincoln, \$100 million in South Sioux City. A few days later-- weeks
later maybe, they announced that \$100 million wasn't enough for
Lincoln. They now upped that to \$200 million for that casino. And now
the gambling interests aren't content with that. They want to add
sports betting to the menu. This is an insidious business. It is never
satisfied. It will go on and on with total disregard to how this is
going to affect our families and our businesses in the state. It's a
sad day for Nebraska, one that I believe we will live to regret in the
future. We believe that our job now, besides opposing any additional
gambling, is to work for consumer protection and we thank Senator
Briese for primarily putting that into the bill. So we will do our
best to minimize the damage that these casinos will invariably bring.
And that is why we support the provisions in LB560 that address
consumer protection, but are forced to oppose it unless the sports

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betting provision is removed. You have the power to do that and we sincerely pray that you will. And since today is my birthday, it would be a very nice present, after 25 years, 26 years, if you would do that. So we do support the consumer protection fully. We'd love to see lots more of it, but definitely not to add the, the sports betting to the menu.

LOWE: Thank you very much, Ms. Loontjer, and happy birthday--

PAT LOONTJER: Thank you.

LOWE: --from all of us.

PAT LOONTJER: This is not the way I planned to spend my birthday.

LOWE: We'll see if we can get you out of here for dinner anyway.

PAT LOONTJER: Thank you. I've got one waiting in Omaha.

LOWE: Are there any questions? Seeing none--

PAT LOONTJER: I think you guys are really tired.

LOWE: --thank you.

PAT LOONTJER: Thank you. Oh, I'm sorry. I do have some handouts. They're from our national organization dealing with children and sports betting and--

LOWE: OK.

PAT LOONTJER: --but I know from experience of 25 years that if I handed out ahead of time, you guys read it and then you don't listen to what I'm saying, so have a good day.

***AL RISKOWSKI:** Dear Senator Briese and the General Affairs Committee, I support the commonsense provisions of LB560 such as banning the use of credit cards for any wager, thus limiting the loses to money a person has and not allowing debt to be incurred. I support the limiting of wagering to within the permitted boundary of the licensed racetrack enclosure. When Nebraskans passed Initiative 429 it authorized laws for gambling only at racetracks. LB560 assures gambling will be limited to racetrack locations. I support

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establishing criminal penalties and providing the penalty of a Class I misdemeanor. I support establishing a process to allow a person to be voluntarily excluded from wagering. I strongly oppose the portion of LB560 that officially legalizes sports wagering. On June 26, 1991, the Senator Judiciary Subcommittee on Patents, Copyrights and Trademarks held public hearings on Senate Bill 474. As a result, Congress found that "sports gambling is a national problem. The harms it inflicts are felt beyond the borders of those states that sanction it." Moreover, the Senator Judiciary Committee agreed with the testimony of "David Stern, commissioner for the National Basketball Association at that time, that 'the interstate ramifications of sports betting are a compelling reason for federal legislation.'" In light of these findings, it appears that Congress exercised its authority under the Commerce Clause to enact the Professional and Amateur Sports Protection Act (PASPA) in 1992. In introducing the Act, Senator DeConcini stated that he and a cosponsor "feel strongly it is inappropriate for the states to trade on the good will of professional and amateur sports and in the process risk causing serious harm to the integrity of sports," adding that "PASPA) represents a different, and broader, approach to the problem of sports gambling." Later, the Senate Committee on the Judiciary wrote that "sports gambling is a national problem. The harms it inflicts are felt beyond the borders of those states that sanction it. The moral erosion it produces cannot be limited geographically." PASPA therefore "represents a judgment that sports gambling-- whether sponsored or authorized by a state or other governmental entity-- is a problem of legitimate federal concern for which a federal solution is warranted." Justice Breyer stated in his opinion on the recent Supreme Court ruling overturning PASPA, Why would Congress enact both these provisions? The obvious answer is that Congress wanted to "keep sports gambling from spreading." S. Rep. No. 102-248, pp. 4-6 (1991). It feared that widespread sports gambling would "threaten to change the nature of sporting events from wholesome entertainment for all ages to devices for gambling." Id., at 4.

LOWE: Thank you and you too. Is there any other opponents? Anybody in the neutral? Seeing none, there were eight letters of support and none in opposition and that closes the hearing of LB560. Senator Briese, would you like to start us on the evening portion of this committee hearing?

BRIESE: A couple of comments on this.

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LOWE: Yes. Oh, yeah, you can close, go ahead.

BRIESE: Thank you, Vice Chair Lowe and thanks, everyone, for their work here today. And I'd like to thank all the testifiers and appreciate everyone coming today and I'd like to wish Pat a happy birthday. That's-- apologize for keeping you here late. Appreciate all the testimony and I, I really appreciate the testimony on both sides and I appreciate the opponents coming in and I, I find myself agreeing with so much that they say. But there's one point that I have to disagree on and that's on the sports betting. You know, voters overwhelmingly approved games of chance in this proposal. In doing so, they approved sports betting. I heard Dennis Lee give us some examples of the need for the use of directives, how, how some of the rulemaking process can be very cumbersome and very slow and time consuming. And I think there's a in-- a difference within the industry on the use of cash advances on credit cards. This is going to be well regulated. You know, we're, we're putting in statute that, that this betting and, and sports betting in particular has to be from within the facility, within a designated area within the facility and that's quite restrictive when you compare it to other states. We're not going to allow use of credit cards. We can-- and we're going to allow individuals to exclude themselves from being able to participate, among other things. And, and plus, we talk about restrictions on the performance or not-- or nonperformance of college athletes, but we're setting the tone here and our, and our tone is that this is going, this is going to be fairly restrictive. You know, we're not opening this thing wide open and that's-- and I think that reflects our values here and Nebraska's values. They, they want it. They, they told us they want it overwhelmingly, but we're not going to open it up wide open. And I trust the regulatory process to ensure that that tone continues and that this is implemented in a, in a responsible manner and I know that the, the commission will ensure that it is done that way. I believe that. And so with that said, I'd be happy to answer any questions.

LOWE: Senator Brewer.

BREWER: Thank you, Mr. Vice Chair. All right, Senator Briese, if, if the ballot initiative had been worded different and none of this money went to property tax relief, do you think it would have passed?

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BRIESE: It wouldn't have passed as overwhelmingly, that's for sure. It might not have passed.

BREWER: And--

BRIESE: Property-- definitely some of it was driven by the property tax.

BREWER: The point-- I think, I think you're right. I think there's just people that are hurt enough to where they're, they're looking the other way in hopes that it would give them enough relief to, you know, have a little better quality of life when it comes to what they got to pay for property tax relief. You heard the discussion. They had referenced those numbers that we started with at the beginning.

BRIESE: Yes, yes.

BREWER: Would you, would you admit that you think those are fairly optimistic?

BRIESE: Well, I, I don't know. I was disappointed to hear folks say that they're optimistic. I guess I don't work in the fiscal department. I, I'm not privy to the calculations and the equations and, and the predictions that they use, so-- but it sounds like folks in the industry think that's optimistic, yes.

BREWER: I think I'd be very gun-shy of spending to those numbers.

BRIESE: True--

BREWER: Thank you.

BRIESE: --agreed there.

LOWE: Thank you, Senator Brewer. Any other questions? Senator Briese, thank you very much.

BRIESE: Thank you, everyone.

LOWE: And now if you'd like to open on LB561?

BRIESE: Yes. Good afternoon or evening, Vice Chair Lowe and fellow members of the General Affairs Committee. I'm Tom Briese, T-o-m B-r-i-e-s-e, and I'm here to introduce LB561. As I previously

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mentioned, this bill is somewhat of a companion bill to LB560 in that LB561 renames the State Racing Commission is the State Racing and Gaming Commission to provide these two industries with consistent, reasonable oversight and regulation and to reduce the costs that would be incurred with two separate agency, agencies. LB561 incorporates many of the provisions in the voter initiative that are better placed in statute under the combined commission, as the commission will have authority to regulate all games of chance as defined in the Nebraska Racetrack Gaming Act. The State Racing and Gaming Commission will be made up of seven members, as was required for the Gaming Commission created in the voter Initiative No. 430, section 5. The commissioners are also prohibited from having any financial interest in any licensed racetrack enclosure for the duration of their term. The language provides the commission with the authority to issue directives without having to comply with the Administrative Procedure Act. This bill also puts a deadline in place for appointment of the additional two members. Other changes this bill makes is to update references in the State Racing Commission statute to keep them in line with other states and the industry, and we've increased the legal age for placing bets on horse races to 21 to harmonize it with the legal gambling age. Criminal penalties listed within these statutes have been changed to be a Class I misdemeanor across the board to harmonize these with the criminal penalties in LB560. Additionally, this bill gives the commission the ability to hire individuals with state deputy sheriff designation to assist with enforcement and investigations as necessary. We put an E clause on this bill because we would like to be able to have the Legislature approve the two new members of the Racing and Gaming Commission. Currently, the initiative language that is in effect does not provide for legislative approval for these two positions and I feel it's critical that we do so. With that said, I assume we'll have a couple of testifiers behind to answer any further questions, and probably a lot of the questions have already been answered. But, but this, again, is a complement to LB560, just trying to outline many aspects of, many aspects of the Racing and Gaming Commission. Thank you.

LOWE: Thank you, Senator Briese. Any questions? Seeing none, will you stick around?

BRIESE: I will be here.

LOWE: All right.

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BRIESE: Thank you, sir.

LYNNE McNALLY: Good afternoon again, Vice Chairman Lowe and members of the committee. My name is Lynne McNally, L-y-n-n-e M-c-N-a-l-l-y, representing the Nebraska Horsemen's Benevolent and Protective Association. I don't have a lot more to say about this bill because combined with LB560 it does a lot of the same things. But I will tell you, as one of the drafters of the three initiatives, we are amenable to combining the Racing and Gaming Commission so that it has cost savings. We certainly didn't mean to duplicate any efforts that would cost the state more money. So we would be very supportive of that. I would also like to mention that this will be my 18th year applying for a racing license, and it's been under the jurisdiction of Tom Sage and Chairman Lee all 18 of those years. And I will say that they are very firm but fair in their licensing process. I-- because on the application it very clearly lists any drug or alcohol conviction, regardless of date, every single year for the past 18 years, I have put that I was arrested for minor in possession of alcohol in 1987. Because although it's a misdemeanor, it was an alcohol-related offense, so I have to list it. But I also represent many people who have had offenses on their record and their license came up for review. And Tom in particular has been very cooperative with me as a representative, especially when it's drug or alcohol related, but they are willing to seek treatment. Tom has always said that if they sought treatment or were willing to attend Alcoholics Anonymous classes and were willing to go on a probationary license so that they could randomly drug screen, that he was willing to work with me on those things. So I just wanted to mention that.

LOWE: All right, thank you, Ms. McNally. Any questions? Thank you very much.

LYNNE McNALLY: Thank you.

LOWE: We're still on proponents.

BRENDAN BUSSMANN: For the record, again, Brendan Bussmann, B-r-e-n-d-a-n B-u-s-s-m-a-n-n, director and partner-- or director of government affairs and partner with Global Market Advisors. I come here again in support of LB561. I know that in my previous testimony on LB560 highlighted some of these things. I just wanted to take an opportunity to highlight two things that I think are important. One

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that I think might enhance the bill a little bit more and one to just put one on record concerning the opposition on LB560. One thing you may want to consider on the membership level as you continue to evolve over this, many jurisdictions will bring in professionals from other sectors. So if you look at Nevada, you have to have somebody that has a law background, somebody that has experience in law enforcement and somebody that brings in a financial or an accounting background, and that's written within the statute. So it might be something you may want to consider as you look at this, what are you seeing in future jurisdictions? And what actually I'm working on in one jurisdiction right now is to add a technology component. Since many of these things, as you've talked about, geofencing and how slot machines work and everything else, technology is more and more important in this industry. And having somebody that understands how technology works is obviously very important. The other thing I just want to add is on the consumer protection side. I think it's very important that those all be looped in accordingly. Obviously, both bills talk about self-exclusion. But, you know, the drafters of the legislation specifically put funding to the problem gambling fund. And I think you need to put some context around what that looks like on how that money spent, how it looks at research, what operators are going to do for responsible gaming plans and training all their employees. As somebody that, when I was on the operator side 10 years ago, drafted an entire global program to train not only all my employees at that point in time, all 10-- actually 30,000 of them on how to recognize symptoms for responsible gaming, they had to go through that annually. And each jurisdiction was different. So something to consider off of that. As well as just making sure that there are mechanisms in place to make sure there's resources within the community. So with that, I'll entertain any questions that you may have. And I will say obviously beyond this hearing, I'd be more than happy to answer any of your questions one on one as well so.

LOWE: All right, thank you, Mr. Bussmann. Are there any questions? We're worn out.

BRENDAN BUSSMANN: There we go. Thank you, guys.

BREANN BECKER: OK, this is going to be fast. My name is Breann Becker, B-r-e-a-n-n B-e-c-k-e-r. Senator Grone [PHONETIC], I wanted to make a clarification when I was up here earlier that Fairplay Park is a parimutuel licensed racetrack. That is the only thing that I wanted to

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clarify and that, yeah, we are running one day that I clarified that my dad had been putting up for years, but he used to pay for himself to have 10 races a day. So that is another thing that I wanted to put into place. Thanks, that's all I have.

LOWE: Were there any questions? And I did find out UNK no longer has the rodeo club.

BREANN BECKER: I'm all-- I'll create it if we want to.

LOWE: The adviser passed away two years ago.

DENNIS LEE: Senators, is it good evening yet? I guess almost, but this will be brief because I shared a lot of my comments with you on LB560. But as relates to LB561--

LOWE: Can you state your name?

DENNIS LEE: I'm sorry.

LOWE: Please spell it. Thank you.

DENNIS LEE: Dennis Lee, L-e-e. The Racing Commission's position on LB561 initially was was neutral. However, I do want to point out that we still are supportive of the directives portion in LB561 that authorizes us. I believe that, as, as Lynne McNally indicated, I think it's wise to consider a combination of the Racing Commission and the Gaming Commission. It just makes sense. I can share with you that most other states, I'm trying to think here on the spot if there are any, and I can't do that. So everything else I said with regard to LB560 would apply to this as well. So I don't think I need to repeat that and take your time.

LOWE: All right. Thank you, Mr. Lee. Senator Brandt.

BRANDT: Thank you, Vice Chair Lowe. So now, if you are the Racing and Gaming Commission, you will just oversee casinos? Or will that role expand to other forms of gambling?

DENNIS LEE: Senator, the way I see the statute is that it will expand to include gaming. Right now, our jurisdiction is with regard to horse racing, thoroughbred, quarter horse simulcasting. As I read LB560,

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LB561 and the initiative, I see it kind of expanding to include the
gaming of the casino-type gaming that we're talking about.

BRANDT: But I mean, what about like keno for the state [INAUDIBLE]--

DENNIS LEE: Keno, keno is, is--

BRANDT: -- any of these other, pickle cards?

DENNIS LEE: No.

BRANDT: All these other things?

DENNIS LEE: No, I believe, although I can't, I can't be sure about it,
so I don't want to mislead the committee. But I think keno and pickle
and, and even bingo is Department of Revenue Charitable Gaming
Division.

BRANDT: Right.

DENNIS LEE: That, that has never been under the jurisdiction of the
Racing Commission. And nothing that I've seen in LB560 or LB561 even
remotely considers that.

BRANDT: So then depending on what happens with, like sports betting.

DENNIS LEE: Right.

BRANDT: It seems like a little bit in flux here. But that would all be
underneath your purview as the new gaming commissioner.

DENNIS LEE: I would see that under the jurisdiction of the Racing
Commission. Correct.

BRANDT: OK, thank you.

DENNIS LEE: You bet.

LOWE: All right, thank you, Senator Brandt. Any other questions? We're
seeing none.

DENNIS LEE: All right, thank you again.

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LOWE: Thank you, Commissioner Lee. Are there any other proponents? Seeing none, opponents. All of this is moving quicker. Anybody in the neutral?

TOM SAGE: Good evening, Vice Chair, senators. I'll be very brief. Tom Sage, Nebraska Racing Commission, it's S-a-g-e, is my last name. I'm here as a neutral capacity. Again, more to answer questions for the, for the senators and the committee. But I would like to address a couple of things that the opponents mentioned. The regulations that I have been working on are tight. I as-- was quoted recently, I want our regulations in Nebraska to be some of the toughest in the country. Ms. Loontjer and her group has worked for 25 years to keep this out. I respect that. I want to make sure that we respect that organization with rules and regulations. I would be more than willing to work with some of the concerns that they mentioned. Some of the concerns they mentioned, I've already addressed. The exclusions, we've got several pages of regulations that are going to cover that. The problem gaming, gaming training. Before somebody can submit, or as part of the licensed submit-- submission for an operational license or a gaming operator's license. Sorry, I'm getting tired too. Part of that would be they would also have to submit minimum standards for security that we establish, surveillance that we establish, problem gaming that we establish. And it's actually in the Gaming Act, internal controls that we establish. Sorry, I could keep going, but we want our regulations to be tight. I know Nebraska. I've been in state government in this for almost 30 years. I want this to be done the best way it can be. Senator Wayne, I have some great suggestions for you with the minority stuff. I actually, there is some rules and some other jurisdictions be glad to share with you down the road.

WAYNE: Thank you.

TOM SAGE: Thank you.

LOWE: All right, thank you, Commissioner Sage. Any other-- are there any questions? Senator Wayne.

WAYNE: Not a question, I just want to point out for the record, I do appreciate when agencies come in neutral and, and talk about technical problems with the bills and just things that they do instead of really picking positions as an agency and as a staff. It just drives me crazy because we pass the laws and you guys enforce them.

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TOM SAGE: That's right.

WAYNE: And if you're against the bill, then I feel like it sends the perception to the public that you won't enforce it. And so I just really do appreciate this whole time you as a staff or employee of the agency have always remained neutral. I really appreciate it.

TOM SAGE: Yeah, I think that's very important, Senator. That's the way I've always been down here and don't have to appear before you very much. I think I might hear in the future being in front of you a lot. But I do. I, I will share my number with Laurie. You know that she can distribute it to the community. Literally, guys, I am working seven days a week, 16 hours a day, as you all are, because we want to get this done right. Thank you.

LOWE: Thank you, Mr. Sage. Is there any other testimony in the neutral? Seeing none, Senator Briese, would you like to close? And he waives. The same eight letters in support for LB560 are the same ones for LB561. And welcome back, Chairman Briese.

BRIESE: Thank you, Vice Chairman Lowe. of leaders.

WAYNE: Starting to be Judiciary over here. We're having Judiciary on purpose.

BRANDT: [INAUDIBLE] we got another three hours to go.

LOWE: Justin, can you go back? [LAUGHTER]. We had a great committee.

BRIESE: Does anybody want to text Hilgers? Oh, are you introducing?

BEAU BALLARD: Yeah, I'm introducing.

BRIESE: Oh, my bad. We'll open the hearing on LB608, Senator, Senator Hilgers.

BEAU BALLARD: This will be the easiest bill all day.

BRIESE: All right, good evening and welcome.

BEAU BALLARD: Good evening, Chairman Briese and members of the General Affairs Committee. My name is Beau Ballard. For the record, that's B-e-a-u B-a-l-l-a-r-d, and I'm the research analyst for Speaker Mike

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Hilgers. I'm here open today on LB608. Very basic, this is just a
reviser bill to eliminate some obsolete language in the Racing
Commission statutes. And with that, I'll close.

BRIESE: Very good. Thank you. Any proponent testimony? Seeing none,
any opposition testimony? Seeing none, any neutral testimony? Seeing
none, he waives closing. That should end the hearing on LB608. Next up
is LR26CA, Senator Lindstrom.

LINDSTROM: Sorry about that, I didn't realize that bill was going to--

BRIESE: No problem.

LINDSTROM: -- be that short.

BRIESE: No problem.

LINDSTROM: The other ones took a little longer.

BRIESE: Good evening and welcome, Senator.

LINDSTROM: Hi. It says good morning. Good evening. Chairman Briese,
members of the committee, my name is Brett Lindstrom, B-r-e-t-t
L-i-n-d-s-t-r-o-m, representing District 18 in northwest Omaha. I'm
here today to introduce LR26CA, a constitutional amendment to allow
the Legislature to authorize, regulate and tax sports wagering. In
November 2020, voters in the state approved the ballot initiative
allowing casino gambling in our state's horse racing facilities.
LR26CA would allow the Legislature to adopt a framework that
establishes consumer protections, rules and protocols for sports
betting operators and to, and to determine how much the state will
collect in taxes and fees for licenses. This CA as written could allow
mobile or online sports wagering. If passed in the Legislature, LR26CA
would then be placed on the ballot for the November 22-- 2022 general
election. Currently, 19 states, including our neighbors, Iowa and
Colorado, allow for sports wagering. In Nebraska, someone could
theoretically drive over the bridge to Council Bluffs, place a wager
on their phone and return to the comforts of their home to watch the
game in light of the successful ballot initiative in November of 2020.
I believe the people now have another chance to determine if this is
the states, in the state's best interest. Do we want to lose revenue
over the river or across our borders? Or can we make reasonable
accommodation for the state, in our state? That is the question I'd

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like to pose to the people. This is a way we could increase revenues while remaining competitive with our neighboring states. Thank you, I'd be happy to answer any questions.

BRIESE: Thank you, Senator Lindstrom. Any questions for the senator? Seeing none, thank you. We'll take the first testifier in support of the LR. Good evening and welcome.

SEAN OSTROW: Thank you. Chairman Briese and members of the committee, thank you for allowing me the opportunity to testify. My name is Sean Ostrow, that's S-e-a-n, last name, O-s-t-r-o-w. I'm appearing today in support of LR26 on behalf of DraftKings. DraftKings is a digital sports entertainment and gaming company launched in 2012. We're based in Boston. We have retail and sports-- excuse me, retail and mobile sports betting in 14 states. We believe a constitutional amendment is a necessary step towards the ultimate goal of a robust and successful sports betting market in Nebraska. It's an opportunity that could pay dividends to the state for decades, so it's worth making sure that there's a carefully constructed and sound legal foundation that includes, in particular, the ability for Nebraskans all over the state to participate in sports betting where and when they want. To date, 22 states, as well as Washington, D.C. and Puerto Rico have authorized sports betting. Additionally, as Senator Lindstrom noted, there are three states that recently had ballot referendums in November 2020, including South Dakota, where over 58 percent of voters supported sports betting. We believe Nebraskans deserve a similar opportunity to have their voices heard on this issue. As we have learned from experience in other states, the most critical component of a successful framework is the ability for customers to partake in mobile sports betting from Internet-connected devices within the state. Much like any other consumer product, sports betting customers demand convenience. Very few customers are willing to drive to a casino anytime they want to place a few bucks on the game. So it's especially true in Nebraska, where many people throughout the state could be hours away from potential sportsbook locations. In New Jersey, which has become the most successful state to implement sports betting, over 90 percent of bets are placed via mobile apps and websites. And the same dynamic holds true in neighboring states like Colorado, where over 97 percent of sports bets come from mobile apps and websites. Nebraskans have access to legal sports betting in neighboring states, of course, but they also have access to the thriving, illegal network of offshore websites that are happy to offer their services to anyone

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with a credit card and an Internet connection. According to a study by Oxford Economics and the American Gaming Association, Nebraskans bet approximately \$900 million on sports every year through these illegal channels. Of course, the offshore market offers no consumer protections or problem gaming guardrails, and they pay no taxes to the state. In order to compete with these neighboring and illegal markets, Nebraska must create attractive legal alternatives. The most effective solution to accomplish this goal is to create a legal sports betting framework with strong consumer protections and tough but fair regulations to allow multiple competing companies to offer their products online. When the free market wins, Nebraska benefits from steady tax revenue while shuttering the illegal market and keeping that money here in state. Additionally, consumers benefit from a variety of competitive and innovative products, as well as the problem gaming resources and consumer protections offered by these regulated companies. To be clear, we are not in any way opposed to the policy of allowing sports betting at Nebraska casinos or racetracks. However, we do not believe that this on its own will achieve the objective of an accessible and attractive regulated market for all Nebraskans. In our, in our increasingly digital world, sports betting must be mobile as well. Oh, sorry, I see the light.

BRIESE: Thank you.

SEAN OSTROW: So I urge your support for the constitutional amendment. Let the voters decide.

BRIESE: Thank you for finishing up there. Appreciate that. Any questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Briese. Nice to have you back. Mr.-- is it Ostrow?

SEAN OSTROW: Yes.

J. CAVANAUGH: If the voters were to adopt this resolution, it wouldn't-- this wouldn't actually allow for mobile sports betting, it would just legalize sports betting in our Constitution, which would then come back on this committee and the Legislature to pass some sort of regulatory structure that would potentially allow for what you're talking about.

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SEAN OSTROW: Yes, that's absolutely correct, Senator.

J. CAVANAUGH: OK. I just wanted to make sure that we are all on the
same page. Thank you.

BRIESE: Thank you, Senator Cavanaugh. Anybody else? You mentioned 22
states have sports betting now and you work in 14 states?

SEAN OSTROW: Yes. So DraftKings is currently live in 14 states.

BRIESE: And is DraftKings entirely mobile and online?

SEAN OSTROW: No, they also have a brick and mortar sports books at
various casinos as well.

BRIESE: But I guess in these states we're talking about, are there any
restrictions to where you can be, where you go mobile?

SEAN OSTROW: So-- oh, that's a great question. So I think in, in your
bill and LB560 would allow for mobile on the premises of casinos. What
we're talking about is more statewide. As long as you are within the
boundaries of the state of Nebraska, you would be allowed to access
it.

BRIESE: Does any other state restrict mobile betting to actual
presence at a facility like, like what we're proposing in Nebraska?

SEAN OSTROW: I believe Mississippi might. I know they're currently
looking at legislation to expand it statewide. You know, part of the
reason for that is that, you know, currently you can go to any
offshore website, access that from, you know, the comfort of your own
home. And so we've really found that it's very difficult to compete
with that unless you have the similar convenience.

BRIESE: Virtually every other state that has enacted sports betting
allows it probably within the state or beyond-- from within the state
or beyond?

SEAN OSTROW: So there are 22 states that have authorized it in some
form. I believe about half of those states also have mobile sports
wagering or are working towards that process.

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BRIESE: OK, ok. Yeah, very good. Thank you. Seeing no other questions, thank you for your testimony. Next proponent testifier. Good evening and welcome.

BRENDAN BUSSMANN: Good evening. Good to be back again. It's been 30 minutes. For the record, Brendan Bussmann, B-r-e-n-d-a-n B-u-s-s-m-a-n-n, I'm a partner and director of government affairs with Global Market Advisors and was born and raised here in Nebraska. I come in support of LR26A-- LR26CA for a couple of reasons, and would be happy to answer the committee's questions on anything sports betting related as it goes across states across the country. As I mentioned earlier, there are 21 jurisdictions that are live. There are another eight-- excuse me nine-- excuse me, eight. I apologize, eight that still have to go operational with sports betting since the repeal of PASBA, which occurred in May of 2018. You are almost on an island on sports betting as you are on casino gaming. If you look around you, Iowa legalized and went operational in August of 2019. I would put them in a hybrid model. And what I mean by that is they allowed initially for in-person registration as well as the brick and mortar facility. But once you're registered, you could use your mobile device. If you look at a jurisdiction like New Jersey, if I land in Newark Airport today, I can fund my account, register and be operational before I walk out the door. If you look at, I know the gentleman before me from DraftKings testified about Mississippi. There are a few states that do not have full mobile. Mississippi is one, Montana is another. And a lot of tribal jurisdictions, you're also seeing that they're going land-based. California has a ballot initiative that would only limit it to the tribal casinos in land-based. So there's a spectrum across the way. I will also note South Dakota, which has a hearing on their bill on Wednesday, would limit sports betting initially to the casinos located in Deadwood. Now, that said, it's very similar to what you see in LB560 and LB561, that would allow it within facility on a mobile device, but does not go on beyond the boundaries of Deadwood. Wyoming will have tribal sports betting here. The tribe there has said they're going to hopefully be operational by March Madness. Colorado in May of last year "operized" full mobile sports betting across the entire state. And Kansas as a hearing on, I believe it's Thursday this week, to potentially legalize. So you're surrounded by it. It's something that obviously is moving in that direction. Should the constitutional amendment be approved by this Legislature, it would have to go on the

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ballot in '22 and then the rules would come back to you to propagate
from there. So with that, I'll entertain, entertain any questions.

BRIESE: Thank you for that. Any questions? Seeing none, thank you for
your testimony.

BEAU BALLARD: Perfect, thank you.

BRIESE: Next testifier in support. Seeing none, opposition testimony.
Good evening and welcome, welcome back.

GLEN ANDERSEN: Good evening. Glen Andersen, G-l-e-n A-n-d-e-r-s-e-n,
I'm obviously here in opposition and I would like to go back to the
Initiative 429. And as far as I can tell, there was no specification
that sports betting was involved. And I'm guessing that the average
taxpayer, the average voter, did not vote for it because they expected
sports betting to be on there. So I'm saying we're going above and
beyond what the taxpayer or what the voters are looking for. With
LB560, that's exactly what's happening. And I go back to generally
what happens with gambling is that, although we ordinarily don't think
of gambling as, as being based on luck or whatever, or we think of it
being based on luck and some out-- outcome that's unknown, but there's
more certainties here than we can even imagine here. We can be certain
there will be winners and losers, we can be certain there will be
winners. Who the winners and losers will be. The certain-- and we can
be certain the winner will be the commercial gambling house. There's
no uncertainty about that. The certain losers are those people placing
bets in hopes of winning. If they win, it will be temporary because
the gambling house must be the winner. The children of many of the
gambling-- problem gamblers will suffer. Divorce will be the result,
difficult home life for the children. Many children will lose the
opportunity to attend college. And that's what happens with gambling.
We know it does. It does. These things are true about commercial
gambling, but online sports betting takes the problems to the way
higher level. Access to gambling is everywhere: at work, on lunch
break, while waiting for a red stop light, at home on the sofa, at
home on the sofa where you can show his or her children how it works,
get the children involved. Even if a problem gambler wanted to
separate from this problem, it is right there with him all the time on
his phone. So anyway, I had understood that someone saying that online
sports betting was available in Nebraska. So I had to try it out. I
went onto DraftKings, on, on their website. I applied, got a password.

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Then I had to install an app that would, and the app would indicate the DraftKings my location. So I tried to place a bet. I got the message, you're located in a state where DraftKings Sportsbook is not available. Deposits to your Sportsbook account can only be used when you were physically located in a state where DraftKings Sportsbook is available. I was elated. I was glad to know that Nebraska enforces their laws as a way to do it. I was very thankful. And my comment is we need to keep sports betting out of Nebraska.

BRIESE: Thank you for your testimony. Any questions? Seeing none, thank you again for being here today, Mr. Andersen. Sir, sir.

_____: [INAUDIBLE].

GLEN ANDERSEN: Oh, I filled one out [INAUDIBLE].

BRIESE: Any other opposition testifiers? Good evening and welcome.

LORETTA FAIRCHILD: I am Loretta Fairchild, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d. what are the problems that LR26CA presents to the Nebraska economy? I would mention four. Is the Legislature capable of adequately regulating more gambling right now? Second-- or at all? Second, who will be the losers in Nebraska from sports betting? Who will be the winners in Nebraska from sports betting? And fourth, how will more gambling impact the functioning and well-being of the Legislature itself. I'm going to skip, so I'm adlibbing. Sorry about that. But I know I don't have much time. I am disturbed about the tone of the conversation from several standpoints. And the first is when you're doing regulating and you're saying we're checking with other and gambling industries in other states and that will tell us best practices, you have to add in the Responsible Gambling Council that around the world has spent the last 25 years trying to figure out ways to make gambling responsible. It's totally, totally different for protecting workers, that's one of the things I still want to talk about, and protecting the, the people who are participating in the gambling. So that's a mindset that's got this, all this regulation in trouble. And this comment that goes around all the time, other states around us have gambling, therefore Nebraska will help itself economically if it brings it in. We already had conversations that say it's a mature market, it's oversaturated. How-- what's the high percentage of Nebraskans who are already within 90 miles of a functioning casino and able to get into Iowa easily? They're going to

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switch to coming to central Nebraska? It's a bit peculiar from a standpoint of all these licenses grant monopoly power, which is how you make money. But they're putting three casinos really close together in the center of the state. How is that-- all tax money comes out of Nebraska pockets. This gambling money is coming out of Nebraska pockets. Every form of gambling-- this was already said, every form of gambling is in competition with every other form of gambling. When you bring in sports gambling, you take away money from the casinos. All of them have been taking money away from the racetracks, its history, its culture, its people's preferences. Why do we assume it's, it's-- it's an advertising myth from the casino industry, hey, you're missing out. It's damaging Nebraska's economy. And the most important piece, I'll put it on the next one is damage to the legislative process.

BRIESE: OK, thank you. Any questions? Seeing none, thank you for testifying. Any other opposition testimony? Good evening and welcome again.

PAT LOONTJER: I'm Pat Loontjer, L-o-o-n-t-j-e-r. I, 25 years, 26 years have been the executive director of Gambling With the Good Life, we're opposed to any expanded gambling. And you heard me testify before. I'm so disappointed in Senator Lindstrom for putting this up. I never would have expected that from him. It's, it's a devastating piece of-- and what you heard from the two previous testimony, why don't, why don't we talk about what this is doing to our families? What is this going to do to our children? When you hear the promise of \$450 million a year being run through these casinos and, of course, you add sports betting it's even more, where's that coming from? It's not coming from the air. They don't produce a product. This is coming from the average Nebraskans. We have a couple on our board of directors, Jenise and Monte Brown, and they own Colombo Candy in Omaha, and built it up for their whole life. And they had an accountant who embezzled \$4.1 million from them and took it across the river to the casino. It devastated them. There was 25 people that lost their jobs. They lost their whole business, their home, everything connected, and they didn't even gamble. And we're just going to see more and more and more of that the closer we see these three big ones that are coming now. And then to add something that's going to affect our children, where they'll be able to use their phones. And of course, that's the first enticement is sports betting for young people, but it draws them in. And I've even heard that the-- it's not a big moneymaker for casinos to have sports betting, but they use it as a draw to, to get the young

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people into the casino and addicted to other forms of gambling. This is nothing that we want to put on our families in Nebraska. Your responsibility is to protect the citizens of Nebraska, not to prey upon them, not to see the dollar signs. See the heartache that this is going to cause, the families that are going to be broken up and divorced and lose everything. My mother had two famous sayings. She lived to 92. One of her favorites was, "It's hell getting old." And I agree with that. And the other one was, "If all your friends are jumping off of a bridge, why would you want to do that?" And we hear all the other states have it. We have to get our share of the money. But we'll also be getting a share of the heartache, and I don't think you want to be responsible for doing that to your fellow Nebraskans.

*NATE GRASZ: Chairman Briese and members of the General Affairs Committee, my name is Nate Grasz and I serve as Policy Director for the Nebraska Family Alliance (NFA). I am providing testimony on behalf of NFA in opposition to LR26CA. NFA represents a statewide network of thousands of individuals, families, and faith leaders who challenge the establishment and spread of gambling due to its destructive impact on families, businesses and communities. The proposed constitutional amendment seeking to allow the Legislature to authorize sports betting would dramatically expand gambling across Nebraska, increase gambling losses, and expose children to harmful messages about gambling. Making a bet with a friend is one thing, but making the government a partner with and enabler of the commercialized gambling industry makes government a tool in the further financial exploitation of its citizens. This inverts the traditional relationship between citizen and government, which should protect, rather than exploit its people. Nebraska's own state-run gambler's assistance program points out on the homepage of their website that the more you gamble the more you lose, and that gambling advertising often attracts the people who can least afford it. When it comes to state-sponsored gambling, in order for the state to win it is our own citizens who must lose. Legalizing the commercialized sports gambling industry also promises that gambling advertising will occur at intrusive levels and expose children to high levels of gambling advertisements. This is especially concerning given that studies show children in areas with legal sports gambling are repeatedly exposed to harmful messages about gambling.

BRIESE: OK, thank you. Any questions? Seeing none, thank you for your testimony. Any fur-- any further opposition testimony? Seeing none,

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any neutral testifiers? Seeing none, Senator Lindstrom, you're welcome
to close.

LINDSTROM: I'll be very brief, because I know you guys have had a long
day. You know, a couple of things. One, it's already being done. You
know, if I wanted to place a bet, right-- by the way, I don't gamble.
I really don't like to gamble, I don't like to lose money. But I will
say that giving people the option to vote on this, I think is, is
worthwhile in the sense that the overwhelming support this last
November was 70 percent of the people in favor of it. If people don't
want to, want it in the state, then they will vote it down. And so I
think as a Legislature, we should be able to give the people the
option. So I'll leave it there. And I would encourage your support of
the LR. Thank you.

BRIESE: Thank you. Any questions for the senator? Seeing none, thank
you for joining us here today.

LINDSTROM: Thank you.

BRIESE: And that will close the hearing on LR26CA. We will open the
hearing on LB545.

WAYNE: Wasn't sure if that was the wipe or Senator Lindstrom was
sweating. [LAUGHTER].

BRIESE: Good evening and welcome, Senator Wayne.

WAYNE: Good afternoon-- or good evening, Chairman Briese and members
of the General Affairs Committee. My name is Justin Wayne, J-u-s-t-i-n
W-a-y-n-e, and I represent the Legislative District 13, which is north
Omaha and northeast Douglas County. LB545 will adopt the Game of
Skills Act, which redefines various forms of poker, such as five card
draw, Texas or Omaha Hold'em as game of skills. I introduced this bill
last year as LB990 and I also had fantasy sports included, but I took
that out this year. And I'll just keep it short because we've been
here all day and most of us have been on this committee before. Games
of skill require more research than a game of chance. It also requires
knowledge and strategy for a successful participation rather than
just, than just plain luck. This is an important distinction because
there are degrees of luck involved and the final outcome is generally
influenced by the experience of the player involved. So basically

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almost everything is a game of chance. Whether you walk outside and get hit by a car or not, you are, when you pay for your insurance, it's kind of a game of chance because somebody else could hit you. That's life. But it's the degree of which you can control things. And to say sports betting and poker is the same as flipping a coin or rolling the dice just isn't true. And so what this is trying to do, to be very blunt about it, is to try to make sure that while blackjack, roulette, craps, slot machines, which are purely, I think, heavily involved of luck or chance, this is completely different. And I'm trying to give the little people, the communities, the rural communities the ability to get some funding out of this. We heard today, and I'm glad I got to go last, that pretty much the industry is going to be tied to racetracks and it's going to be the big players. But at the end of the day, there's no reason why a local city can't have the ability for somebody to go place a wager in their local bar. And I'm not saying we should have them at every bar, it could be regulated, but we should be able to collect the taxes and the local community be able to do it. If you look at the fiscal note, what's really interesting about this is by the year 2025, we believe that there's \$38 million in revenue. Now, think about the difference in the fiscal notes between Senator Briese, Chairman Briese and mine. The difference is it's localized. People can go out and do it, and it gives local control in the sense of people will be able to use it at a smaller facility to make it every day. To handle the gambling addiction problem, if they drive to Omaha, nobody knows who that person is. If they drive to Lincoln, nobody knows who that person is. But as a former bar owner, Senator Lowe, pretty sure he knows the people in Kearney. There's a problem with somebody placing sports bets, it's easy to talk to that local person and maybe they can get them some help. This is a way, I think, for the little guy to participate in a billion dollar industry. But to say that it's a pure form of game of chance I think is just naive and untrue. And I say naive because we've been bombarded with sports betting is gambling. But the fact of the matter is, is BankShot was considered sport-- gambling and the Supreme Court came back and said no. And part of the bill, I think, no matter what needs to move forward, is we need to tax BankShot. We need to make sure all of those revenues and those so-called game of skills at every one of these restaurants that we're collecting, or our local gas stations, that we're actually providing a tax on it to make sure we're getting those revenues. Because right now they're not. And if we believe it's a game of chance and that the

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courts got it wrong, we definitely should be taxing it, as we do with any other game of chance that was just authorized by the voters. Again, we're talking about \$34 to \$38 million in revenue. This is an opportunity for the local people to be in charge and the local people to be able to determine how they should run it. It's really that simple. And if it wasn't late, I would keep going into it. But it's late and I think this committee understands the difference, in my opinion, between pure luck and a game of skills. I would gladly happen-- happy to answer any questions.

BRIESE: Thank you, Senator. Any questions for Senator Wayne? Senator, Senator, do you distinguish between sports betting and poker games when you're assessing whether one or the other is a game of skill versus chance based on what you've heard today?

WAYNE: Yeah, I think there's, I think there's a continuum, right? You have flipping a coin, which you have no control over. You just flip to poker where if we're all sitting here playing poker and Senator Brewer and Senator Brandt have the blind and the big blind and I look at my hand, I can fold. It's a strategy. I win that round because I didn't lose anything. If I decide to participate it's because I'm looking at the cards and I'm, I am controlling how I want to do. Is there some luck of chance? Yes. But overall, it's a strategy and it's a strategy of the mind and strategy of the experience. So I think it's a continuum. And what we're talking about is black and white, but there's this whole gray area in between. And we have that in a lot of our laws. And my question is, shouldn't we all benefit from that? Shouldn't the small counties and cities be able to benefit from that like they do keno or like they do with something else which are truly games of chance. But I think it's a continuum, Chairman Briese, and I think sports betting and poker are on the other side of that continuum of game of chance. If you say 50 percent is that demarcation point.

BRIESE: But it's your opinion that poker is more a game of skill than is sports betting.

WAYNE: No, I don't, I don't necessarily agree.

BRIESE: OK.

WAYNE: I think, but to answer that, I think if you bet on the next throw, if you place a wager on the next throw, that's more along the

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game of flipping a coin. But if you're studying the teams, the matchups, the number of rebounds they get per game and all those other stats, that changes that, in my opinion, to strategy. That's no different than poker to me.

BRIESE: OK, thank you. Seeing no other questions, thank you for opening. Do we have any proponent testimony? Do we have any opponent testimony, any opposition testimony? Welcome again.

PAT LOONTJER: Good evening. Back again, maybe for the last time, wouldn't that be nice. I'm Pat Loontjer, L-o-o-n-t-j-e-r, executive director of Gambling With the Good Life. We vehemently oppose this bill. This a-- we, I would suggest that this bill does not legalize poker because pay-- people play poker for fun all the time. What this does, it's going to legalize the exploitation of the naive poker players by poker sharks and giving the, the state a cut of the action. And I don't think that's exactly, you know, what the state is set up to do, is to exploit its citizens. So I think it's a total unnecessary bill. And we do not think that it's a game of skill, but it's another form of gambling that takes the money out of the family's pocket and moves it over, whether it's to the poker sharks or to, you know, kick-- give it a little kickback to the state. I don't, I don't think the risk is worth the decision.

BRIESE: OK, thank you for your testimony. Any questions? Seeing none, thank you again.

PAT LOONTJER: Do we get to go home now?

BRIESE: Any further opposition testimony? Welcome again.

LORETTA FAIRCHILD: I am Loretta Fairchild, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d. I will give you my conclusions first on both LB545 and the constitutional resolution. They are-- I beg of this committee, keep them both in committee and don't let them out until the regulations for casinos have been well put together and tested and we know what we're doing. You heard it's going to take a year to do that. You've heard that the monetary estimates of how much tax money is going to roll in are wildly beyond accuracy. That's, that's true for both of these things. The leg-- your legislative time is extremely scarce and you must invest it in the most important pieces. The whole linkage of this to property tax relief is terrible tax policy. It's

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another one of the basic economic issues around here. It is wasteful of tax dollars to link them into separate pots. That's just a sweetener that anybody bringing up a tax looks, tries to sell it to voters by saying, look, we'll give the money to X project. That is not the way you maximize the amount of revenues available to Nebraska and it takes decision making away from the Legislature. I totally salute Senator Wayne's focus on inclusion. That is very, very important for jobs in Nebraska. There will need to be training for those jobs in Nebraska. It will not be more profitable for the casinos, but it will improve the impact on Nebraska's economy. One more piece. You're looking at stopping corruption, but the addictive factor of video slots are built in at the factory. They have hired PhD psychologists from a long while back to specifically make the functioning of video slots as addictive as possible. The whole bit about low lighting levels, no clocks are all designed to keep people in the zone so they don't leave. That's where the corruption lies. And you've got pages and pages on you can't tamper with the coins. It's the legislative impact. Iowa, remember those promises? Two casinos always on the river, always sailing. Can't be changed. We're now up to, what, 22? No sailing. And the more important piece, equally important piece is that the money that had been earmarked in the state of Iowa for focusing on compulsive gambling has been switched by the legislature into casino promotion.

BRIESE: I'm going to have to cut you off there.

LORETTA FAIRCHILD: The state of Illinois--

BRIESE: If you would close quickly.

LORETTA FAIRCHILD: -- is your classic case. They have casinos all around the edges. They're high-tourist state. They were set up and they were in at the beginning. Their fiscal life is a disaster.

BRIESE: OK.

LORETTA FAIRCHILD: Everything you want to know what's wrong? Nebraska is a shining example. And if you guys don't keep serious legislative control over this, not just maximize casinos in the rest of the, to keep up with other states, we'll be moving closer to Illinois.

BRIESE: Thank you.

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LORETTA FAIRCHILD: Thank you.

BRIESE: Thank you for your testimony. Any questions?

LORETTA FAIRCHILD: Thank you all.

***RANDI SCOTT:** Chairman Briese and members of the General Affairs Committee, my name is Randi Scott and I am a registered lobbyist representing All American Games, LLC in opposition to LB545. All American Games, LLC is a Nebraska small business based in North Bend. Matt Kroeger is a distributor of mechanical amusement devices also known as electronic video games of skill. All American Games, LLC currently has approximately 125 machines placed in locations around the state. LB545 seeks to expand gambling and the definition of games of skill to include sports betting, fantasy sports, and poker games. All American Games, LLC has no position on those provisions of the bill. All American Games, LLC is opposed to the 25 percent excise tax that would be imposed on games of skill as proposed by the bill. That level of taxation would result in a massive tax increase on an industry that is undergoing the implementation of new regulations. Mechanical amusement devices, although games of skill, are very different from sports betting, fantasy sports, and poker games and should not be taxed at the very high level proposed in the LB545. Ever since Mr. Kroeger's father founded the company in 2014, they have complied with all state laws and paid all the required taxes to operate our machines. Following the passage of LB538 in 2019, the Department of Revenue worked to develop new rules and regulations of cash devices. Through that process, the Department raised the fee for Mechanical Amusement Devices (MAD) decals from \$35 to \$250, an over 700 percent increase in 1 year. The department has also developed a new application process for approving licenses to operate machines in the state. I have complied with all of the new regulations implemented by the department, since the finalizing of the new regulations in November of 2020. In fact, the 2021 application process is still ongoing. The machines are still being lab-tested, so 2021 decals have yet to be issued by the department. Any form of additional taxation of mechanical amusement devices must take comprehensive consideration of all the taxes and fees on the operation of the cash devices. In addition to the new application and license fees created by the department, operators and distributors, like All American Games, LLC, already pay personal property taxes on the equipment, state, individual or corporate income taxes on the net profits generated from

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the operation of the devices. My location partners across the state are also small independent business owners consisting of convenience stores, restaurants, bars, bowling alleys and fraternal organizations, VFWs. To operate the machines, the manufacturers, machine owners and operators, and locations all receive disbursements from the operations of the machines. All of our small independent businesses, especially in rural locations within the state, rely on the revenue from the machines to supplement their income and bring in additional business. Many of the small independent owners and fraternal organizations rely on the machines as a consistent revenue stream to pay their monthly bills to keep their facilities running. This bill would have a considerable negative impact on our location partners, small businesses in Nebraska.

***NATE GRASZ:** Chairman Briese and members of the General Affairs Committee, my name is Nate Grasz and I serve as Policy Director for the Nebraska Family Alliance (NFA). I am providing testimony on behalf of NFA in opposition to LB545. NFA represents a statewide network of thousands of individuals, families, and faith leaders who challenge the establishment and spread of gambling due to its destructive impact on families, businesses, and communities. Classifying poker and sports betting as "games of skill" would substantially expand gambling across Nebraska, dramatically increase gambling losses, and expose children to harmful messages about gambling. Commercialized sports betting severely harms children and will radically change the way that children consume sports. Studies show that children in areas with legal sports gambling are repeatedly exposed to harmful messages about gambling. A report from BBC News found that in the United Kingdom, where sports gambling is legal, one out of every five ads during a sporting event is a gambling ad. Researchers have found that the high frequency of sports gambling advertising has normalized gambling for kids, who now see gambling as central to playing and watching sports. When it comes to state-sponsored gambling, in order for the state to win it is our own citizens who must lose. Opening the door for online wagering and creating the capacity to gamble on smart phones and tablets does not serve the best interests of children and families in Nebraska. State-sanctioned gambling produces nothin but can take everything. It ruins marriages, destroys families, fleeces the poor, creates corruption, and deceives the public. Calling poker and sports betting "games of skill" will not change this reality. There are always ways to improve our state, communities, and neighborhoods, but

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sacrificing local businesses, families, and children to the harms of state-sanctioned gambling is not one of them. For these reasons we respectfully urge the committee not to advance LB545.

***RUSSELL WESTERHOLD:** Senator Briese and members of the Revenue Committee: My name is Russell Westerhold, and I appear before you today as a registered lobbyist for Winners Marketing Inc. in opposition to LB545. Winners is a Virginia-based company that distributes skill-based gaming devices in several states, including Nebraska. Currently, Winners has approximately 300 machines in various locations throughout this state. With the changes recently enacted by LB538 in 2019, these devices are considered "cash devices under Nebraska law. Winners takes no position on those sections of LB545 that bring sports betting and poker within the authorized games of skill under Nebraska law. However, Section 16 of LB545 would impose an excise tax in the amount of 25 percent on the gross revenue from electronic skill devices in Nebraska. Winners opposes that provision of LB545. We suggest that any system of taxation on cash devices or electronic skill devices should fairly consider the cumulative Nebraska taxes already paid by this industry. Operators and distributors of electronic skill devices in Nebraska already pay personal property taxes on the equipment, state individual or corporate income taxes on the net profits generated from operation of the devices, and application fees and annual licensing fees collected by the Department of Revenue as established under LB538. Distributors and operators of electronic skill devices in Nebraska already face a significant tax burden. Any taxation on these devices in Nebraska should be competitively neutral and capable of enforcement. At present, Nebraska lacks the regulatory structure for the tax proposed by LB545 to be fairly enforced. Some distributors (Winners included) ensure that their devices are technologically capable of accounting for all cash handled (both cash inserted and cash paid out). With such technology, the gross revenue from any such device can be easily verified and audited. However, some devices operated in Nebraska presently do not possess this capability. Without a system for validating and auditing the gross revenue from all devices in Nebraska, there can be no fair mechanism for enforcing the tax proposed in LB545. For those reasons, Winners asks that you not advance LB545 from this committee.

BRIESE: Seeing none, thank you again. Any other opposition testimony? Seeing none, anyone testifying in the neutral capacity? Seeing none,

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Senator Wayne. Senator Wayne waives and that will close that hearing
on LB545.