

Transcript Prepared by Clerk of the Legislature Transcribers Office

General Affairs Committee February 13, 2023

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**LOWE:** Welcome to the General Affairs Committee. My name is John Lowe and I represent the 37th District and I am Chair of this committee. Our hearing today is part of the legislative process. This is your opportunity to express your thoughts and opinions on proposed legislation before us today. Committee members might come and go during the hearing. This is just all part of the process. They will have bills to introduce in other committees on occasion. We're very busy this time of year. The order of the bills has been posted outside the hearing room, and the first bill up today will be LB72. I ask you to abide by the following procedures to facilitate today's meetings. Please silence or turn off your cell phones or electronic devices. I just got in, so done. And the committee may be referring back to their phones or computers. But I assure you, they're just researching things for either this committee or bills that they may be coming up on. Please move to the reserved chairs in the front row as you prepare to testify. So please move forward as your turn is approaching. The-- and the proponents can now move forward on LB72 so we kind of have an idea of who's going to be testifying. The introducing-- and, Senator Aguilar, you can just go ahead and take that front seat there if you want. The introducing Senator will make his introduction and remarks followed by the proponents, then opponents, and then those in the neutral. Closing remarks will be reserved for the introducing senator of the bill. If you are planning to, to testify today, pick up, pick up one of the green sheets on either side of the room on the tables that you see on the corners there. Please make sure you print clearly your name and your phone number so we can report accurately who's testified today. And this will be the way that the transcribers will contact you if they need verification on what you said, so make sure you put print very clearly on the green sheets. If you do not want to testify but wish to report that you were here, there are white sheets on the table, you can fill those out and it will go on the official record that you were here and it indicates whether you are a proponent, opponent, or in the neutral on the bill. If you have handout-- handouts, we ask you to bring ten to the committee and hand them to one of the pages so it can be distributed to the committee. If you do not have ten copies, please let the pages know and they will try to facilitate copies for you. When you come up to testify, please speak clearly into the microphone, state your name and then spell your whole name, first and last. Again, this is so that it is recorded correctly. We'll be using the light system today and we will be going with a three-minute time limit. So please judge your time accordingly. You'll be given two minutes on the green light, one minute on the

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yellow, and then one-- once the red light turns on, you are pretty much done so quickly finish up. No displays of support or opposition for a bill local-- or vocal or otherwise will be allowed. The committee members with us today will introduce themselves starting at my very far right with Senator Brewer.

**BREWER:** Tom Brewer, District 43, which is 11 counties in western Nebraska.

**J. CAVANAUGH:** John Cavanaugh, District 9, which is midtown Omaha.

**HUGHES:** Oh, sorry. Jana Hughes, District 24: Seward, York, Polk, and a little bit of Butler County.

**HARDIN:** Brian Hardin, District 48: Banner County, Kimball County, Scotts Bluff County.

**HOLDCROFT:** Rick Holdcroft, District 36, west and south Sarpy County.

**RAYBOULD:** Jane Raybould, Legislative District 28, the center or the heart of Lincoln.

**LOWE:** And Senator Hughes is the Vice Chair of our committee, Laurie Holman is committee counsel, Ben Earhart is committee clerk, and our pages for today are Landon and Luke. Landon is a history and poli sci major, and Luke, you're poli sci, yes, poli sci major. And with that, Senator Aguilar, welcome to the General Affairs Committee.

**AGUILAR:** Thank you, Chairman Lowe, good afternoon, and members of the General Affairs Committee. I am Ray-- Senator Ray Aguilar, spelled R-a-y A-g-u-i-l-a-r, and I represent Legislative District 35, which happens to include Fonner Park in Grand Island. Today, I'm introducing LB72 on behalf of the Fonner Park racetrack facility. LB72 provides for a change in the definition of gross proceeds in the Nebraska County, City and Lottery Funds Act [SIC]. For some history on this act, the Nebraska County and City Lottery Act allows for and regulates, among other things, the conduct of keno lotteries by cities and counties for community betterment purposes. The act defines gross proceeds do not only include wagers by keno players, but also include admission costs collected by any keno operator or satellite locations. As such, any admission costs collected by a keno location must be remitted to the county as part of the keno revenues for that location. Presumably, this definition was passed to ensure that no location could profit by merely offering access to activities granted by a government license. However, some larger locations that offer keno may

have areas that require an admission fee and other areas of the same facility that do not. In those situations, the Department of Revenue has determined that keno may not be offered in the admission fee areas unless those admission fees are remitted to the city or county. This causes such locations to offer keno in some portions of the facility, but not in others. Licensed racetrack enclosures are particularly affected by this rule. Several racetracks in Nebraska offer keno, but the, the Clubhouse, Turf Club, and VIP areas of such facilities will not offer keno because of the admission fee rule. This costs significant revenues to local governments as well as the racetracks, because keno may be particularly popular with those patrons. LB72 specifically asked to change the definition of gross proceeds so that if a facility offers keno in one area that is free of admission charges, then the same facility may also offer keno in an, in an admission guarded area. The original intent of the bill is still kept in tact, where a location cannot profit by merely offering access to keno. But this allows the flexibility for larger facilities to offer keno throughout the entire facility if patrons may participate in a keno lottery in a free area. There are representatives from Fonner Park who will follow me to answer any specific questions about the purpose of this change. I actually introduced this bill to this committee last session and it passed on an 8-0 unanimous vote. The bill was selected for consent calendar, but due to time constraints did not make the floor. Thank you and I'll be happy to try to answer any questions that I can.

**LOWE:** Thank you, Senator Aguilar. Are there any questions? Seeing none, will you to stay for close? OK. I will now call on proponents of the bill. Are there proponents? Welcome.

**MARK LANDIS:** Thank you. Hello, my name is Mark Landis, M-a-r-k L-a-n-d-i-s, and I'm a financial analyst at Fonner Park. Fonner Park supports this bill and appreciates Senator Aguilar's work on this. Each spring, Fonner Park attracts thousands of visitors to our live races, including our biggest day is Saturday, where any given Saturday can attract anywhere between 5,000 and 7,000 people. Fonner Park offers keno to our patrons, and because people are already at the races to place a bet or two, keno is very popular on those days. However, the most popular area at the track is the Clubhouse which can hold about 1,700 people and generally sells out. Unfortunately, though, because of this law, we cannot offer keno to the Clubhouse patrons because of the seating charge for that area. The Department of Revenue has informed us that a seating charge is the same as admission charge. And so we would have to remit all of our Clubhouse sales to

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the county if we offered keno in the Clubhouse. So, therefore, we don't do it. We hope that the Legislature will change the definition of gross proceeds so that we can also offer keno to our Clubhouse patrons. We estimate that the current law costs Hall County about \$30,000 to \$50,000 each year in net keno proceeds, as well as the state's 2 percent of keno wagers. And of course, Fonner Park's commission. This problem likely affects other licensed racetrack enclosures, including Omaha. And they probably have the same experience as us, although I can't speak for that, but I'm assuming they do. Any other large venues, such as large sports bars that offer keno but have separate areas with cover charges for things like live performances could also benefit from this rule change. We appreciate your consideration of this bill. This small change would help keno at licensed racetrack facilities and the associated counties. And if you have any questions, I'll be happy to answer them. Also, Fonner Park's CEO Chris Kotulak is here behind me. He will also be happy to answer any questions, although he's going to speak on the next bill as well, so.

**LOWE:** All right. Thank you very much, Mr. Landis. Are there any questions? So there is keno allowed in the general admission area?

**MARK LANDIS:** Correct. Yeah.

**LOWE:** And, and just not in the seated Clubhouse area?

**MARK LANDIS:** Exactly, or the Turf Club.

**LOWE:** OK.

**MARK LANDIS:** Yep.

**LOWE:** And when is the first race?

**MARK LANDIS:** On Friday, it will, it will be at 3:00 and on Saturdays and Sundays 1:30 p.m. And so we're usually done by 6:00. We're done before dark because we don't have lights on the racetrack.

**LOWE:** All right. Thank you.

**MARK LANDIS:** Yeah.

**LOWE:** Yes, Senator Raybould.

**RAYBOULD:** Yes. Thank you so much, Mr. Landis. And just to clarify, basically, you just don't want to be taxed on the, the gross proceeds of admission to any clubhouse.

**MARK LANDIS:** Correct. If, if we sell a table at the Clubhouse and we offer keno, we have to give the entire table sale, sale to the county. So the entire cost of it so, of course, we won't do that.

**RAYBOULD:** OK. Great. Thank you.

**MARK LANDIS:** Yep.

**LOWE:** All right. Any other questions? Seeing none, thank you very much.

**MARK LANDIS:** Thank you.

**LOWE:** Other proponents? Seeing none, opponents to LB72? Are there any opponents? Seeing none, those in the neutral? Seeing none, Senator Aguilar waives closing. Close the hearing on LB72. We will now hear from Senator Aguilar again on LB73.

**AGUILAR:** Good afternoon again, Chairman Lowe and members of the General Affairs Committee. My name is still Ray Aguilar and still spelled R-a-y A-g-u-i-l-a-r. I represent Legislative District 35, which is home to Fonner Park and the Nebraska State Fair. Today, I'm introducing LB73. This bill amends some of the restrictions against grants being awarded to facilities that offer parimutuel wagering under the County Visitors Promotion Fund. For some background, this fund was established to give local governments the option to tax hotels and motels and distribute those tax dollars via grants that will in turn promote tourism. The law as, as presently written excludes any grants from being awarded to promote parimutuel wagering or to visitor attractions where a parimutuel mutual wagering occurs. Fonner Park is a nonprofit organization with mobile operations that exist at the intersection of the agricultural, tourism, and entertainment industries. Fonner Park is not only Nebraska's premier racetrack, but is home to the Hall County Fair, Nebraska State Fair, Heartland Events Center, local and regional exhibition events, state and interstate sporting events, and is host to the Grand Island Livestock Complex Association [SIC], natural agricultural exhibition events. The Fonner Park campus is one of the most significant drivers of tourism in Hall county. The regional and national events held at, at the campus draw thousands, hundreds of thousands of out-of-town

visitors to the campus each year. Most of these people will patronize area hotels and restaurants as well. Since the purpose of the program is to create a recursive cycle of attracting visitors to generate hotel and restaurant tax funds and using those funds to attract more visitors, the events at Fonner Park's campus are precisely the type of events for which this program was designed. However, because the parimutuel wagers occur in the racing operations at Fonner Park, a broad interpretation of the statute may eliminate Fonner Park from consideration for the county visitors promotion grants. Access to these grants would allow Fonner Park to expand, improve, or construct upon the existing grounds, as well as acquire or expand exhibits at the grounds in accordance with statute 81-3720. Because other, because other racetracks may be located at fairgrounds, for example, currently, the Columbus and Hastings racetracks are located at fairgrounds, this law would benefit those fairgrounds as well. LB73 would change some of the restrictions against grants being awarded to the facilities that offer parimutuel wagering to be consistent with the original intent of the statute, but does also accommodate the situation at Fonner Park or similar racetrack facilities. The proposed language allows grants to be awarded to a licensed racetrack enclosure only if it is the site of a county fair and state fair, are typically held at large complexes, which may also serve as entertainment or cultural destinations. The proposed language does not, however, permit grants to be awarded to racetracks that do not serve these additional local tourism functions. All other language regarding parimutuel wagering is stricken to avoid confusion. Representatives from Fonner Park are here today to testify and answer specific questions you may have. This bill was introduced to the Government Committee last year and it passed, again, on an 8-0 unanimous vote. The bill was selected for consent calendar, but due to time constraints did not make the floor. Thank you and I'll be happy to try to answer any questions you have.

**LOWE:** Thank you, Senator Aguilar. Are there any questions? Seeing none, thank you. Will you stick around for closing? Are there any proponents for LB73? Good morning.

**BRAD MELLEMA:** Good morning, Chairman Lowe, committee. Thank you. My name is Brad Mellema, B-r-a-d M-e-l-l-e-m-a, director of the Hall County Convention and Visitors Bureau, Grand Island Tourism. And it's an honor to sit in front of you today. Grand Island is home to the Nebraska State Fair, Husker Harvest Days, the Aksarben Livestock Show, Fonner Park Thoroughbred Racing, Sandhill Crane Migration, and the 4-H National Shooting Sports Competition. We're an events-driven town.

Four of those six events that I just mentioned to you happen at Fonner Park. OK? And so Fonner Park is a key cog in the tourism business, not only of Grand Island, but of Nebraska. Some of the biggest and best events that we host in this, in this state happen there. When Fonner Park is busy, our town is busy. If Fonner Park is busy, you're going to wait a little longer to get a restaurant seat. That's tourism. We work with them and partner with them all the time on events. Thoroughbred racing and parimutuel wagering is a part of their business. It has been for 70-- there you go, they're shaking their heads, 70 years, a long time. And as such, is a key part of Fonner Park. These funds, however, aren't specifically targeted to go to that component of Fonner Park, but we're simply asking for clarity in this language. The statutes that were set up, I believe in the early '80s, that would allow us to use those grant funds for those other activities that happen on the Fonner Park campus that drive tourism. And so these would be just like any other applicant, any other nonprofit or any other governmental entity that is able to drive tourism would then be able to use those funds and, and offers clarity to us as to that bifurcation or that delineation of how Fonner Park is a unique place. So back to Fonner Park put an application in for a new starting gate at the track, that isn't going to happen. That's part of parimutuel wagering. But there are places on the campus, for example, the concourse has been used for events. This weekend we have the state cheer and dance competition. They have used that in the past. Maybe some improvements to that, but it's also used for the parimutuel wagering or horse races at times. And so would it make sense for us to do an application for improvements to that to help with those other events? It probably would, but its primary purpose is not the parimutuel wagering. Do you see where we're going with this? And so that is the reason or the purpose for the clarity in this legislation, and we hope that you'll consider that in the affirmative. Be happy to answer any questions anyone might have.

**LOWE:** Thank you, Mr. Mellema. Are there any questions? Senator Raybould.

**RAYBOULD:** Yes. Thank you so much for coming to testify. So some of the grants that you would be applying for now would include like capital investments and improvements to the facility?

**BRAD MELLEMA:** That's correct. In the legislation that we operate under right now, the statutes, that fund is designed for-- we call it brick and mortar. There is a marketing component to that as well, which is a bit of a broad interpretation perhaps. What does that actually mean?

But its primary purpose is for visitor improvements. So these are new or improved facilities, and this is true for all the counties, including Lancaster, where your district is, where if they were to apply for those funds, it might be a new portion of a building that helps improve whatever it would be, workflow, those kinds of things. And so Fonner Park is simply asking for that.

**RAYBOULD:** Thank you.

**LOWE:** Thank you, Senator. Any other questions? Seeing none, thank you, Mr. Mellema.

**BRAD MELLEMA:** Thank you.

**LOWE:** Next proponent.

**CHRIS KOTULAK:** Senators and staff of the committee, 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 midtown Omaha. I've been in the horse racing industry for 45 years of my 60 years and the gaming industry for roughly 30 years as well. Specifically, casino gaming. This bill, LB73, does not have a lot to do with that, but Fonner Park obviously is the host of gaming, but we also host the aforementioned events that occur on our property that Brad Mellema of the CVB mentioned. The Grand Island Livestock Complex Authority, GILCA, is huge for the community of Grand Island specifically, and for Fonner Park these funds are necessary to help for those shows, their livestock shows. And the majority of the-- these exhibitors that come and have any livestock show at Fonner Park, be it a cattle show or a llama show or a goat show, you name it, many of these exhibitors and these associations that produce these events are accustomed to going to venues and having that venue be heavily subsidized by some sort of state funding. Brookings, South Dakota, the Iowa State Fair, the Lancaster Event Center is a, is a event that attracts a lot of livestock shows as well. We would not get hardly any of these shows in Grand Island, was it-- were it not for the subsidies from the Grand Island Convention and Visitors Bureau. A show might cost \$60,000 for a, for a show to happen at Fonner Park for a GILCA show. And these exhibitors might be accustomed to only paying maybe \$30,000 or \$40,000 to have their show. Why? Because those facilities are subsidized and staffed heavily by state or other local funding, not as much or at all here with the GILCA show. So that's where the Convention and Visitors Bureau steps up with funding. The show is going to cost you \$60,000, we'll give you \$20,000 or \$30,000 to help pay that bill to Fonner



Park. Fonner Park needs these subsidies for these shows to come. The city of Grand Island needs these shows to come more than Fonner Park needs them to come. We have these livestock buildings and they are for livestock shows and other shows. They are not part of the, the gaming portfolio of Fonner Park and it's necessary to help with the maintenance of these buildings. I know that in case you're thinking about what many people think about now, and that's, oh, well, you've got a casino now at Fonner Park that'll take care of everything. It will not take care of everything. And what we gain from a casino is, is significantly less than what many people think. And then we need to split that with the horsemen for purse money, so. Thank you for your time. I would love any questions if you have any, but I certainly support LB73 to what Brad Mellema has mentioned already.

**LOWE:** Thank you, Mr. Kotulak. Are there any questions? How much money is generally in the account, in, in, in the fund annually?

**CHRIS KOTULAK:** Well, for-- I, I can't speak annually to what Brad Mellema has in CVB account, Brad might be able to answer that, but it's-- I know it's a lot of-- I won't say robbing Peter to pay Paul, but Brad has a bit of a shell game that he has to do to balance to have that money retained so he can entice visitors to come and exhibitors to come to Grand Island.

**LOWE:** OK. Do you know how much is, is awarded in a single-- from a single entity into the grant?

**CHRIS KOTULAK:** I could say this. I would say that GILCA, the Grand Island Livestock Complex Authority, will receive from Grand Island CVB funding, I would say anywhere between \$50,000 to possibly \$100,000 a year. And I, I know that Brad gets a little bit more than that, but probably not a whole heck of a lot. So a good percentage of what, what he receives for his funding goes towards getting those shows into Grand Island. Then, of course, that is less than he can offer elsewhere in his, in his needs or what is asked of him as a CVB director.

**LOWE:** All right. Thank you. Any other questions? Seeing none, thank you.

**CHRIS KOTULAK:** Thank you.

**LOWE:** Other proponents to LB73? Are there any other proponents? Opponents to LB73? Are there opponents? Are there any in the neutral?

Ray, you're getting off easy. Senator Aguilar, would you wish to close? He waves at us again. Have a good afternoon, Senator Aguilar. We will now move to LB168.

\_\_\_\_\_ : He's across the hall. He'll be right--

**LOWE:** OK. We'll stand at ease for a few minutes here, we moved too quickly for Senator Bostar. And just to let everybody know, we will probably take a break about 4:00 just for convenience purposes if we go that long. Senator Bostar, welcome to the General Affairs Committee.

**BOSTAR:** Thank you and good afternoon, Chairman Lowe, members of the General Affairs Committee. For the record, my name is Eliot Bostar. That's E-l-i-o-t B-o-s-t-a-r, and I represent Legislative District 29. I'm here today to present LB168. In 2020, Nebraska voters approved a ballot measure that expanded gambling in Nebraska. Then through the Nebraska Racetrack Gaming Act, the Nebraska Legislature created the regulatory framework to carry out the will of the voters. This framework authorized sports wagering at Nebraska casinos. However, a provision in the Nebraska Racetrack Gaming Act added late in the process prevents Nebraskans from wagering on in-state collegiate sporting events, in which a Nebraska college or university team is a participant. However, the act does allow wagering when those very same Nebraska teams are playing out of state. LB168 seeks to increase consistency in our gaming regulations by allowing Nebraskans to wager on all Nebraska collegiate sporting events, regardless of where they are being played. LB168 would direct the tax revenue generated by sports wagering on Nebraska teams playing in Nebraska to the Nebraska Opportunity Grant Fund. The Nebraska Opportunity Grant, or NOG program, is administered by the Coordinating Commission for Postsecondary Education and is the state of Nebraska's only need-based financial aid program for postsecondary students. The NOG program provides financial aid to students who are residents of Nebraska, have not earned a bachelors, graduate, or professional degree, have high financial need, and who are attending eligible Nebraska colleges and universities to earn a degree or credential. In the 2021-22 program year, over 13,000 students received a Nebraska Opportunity Grant totaling \$22,691,467 in awards. The average grant award was \$1,720. However, more than 15,000 students who qualified for grants did not receive them due to a lack of NOG funds. LB168 would increase funding for the NOG, allowing the program to provide additional financial assistance to Nebraska students. In closing, LB168 is not about expanded gambling. Nebraska teams playing in Nebraska are already

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subject to sports betting, just not in Nebraska. But across the country, people are betting on Nebraska teams regardless of where they're playing. LB168 is about fairness and consistency in our laws. This bill also makes it easier for Nebraska postsecondary students to afford their education. Thank you for your time this afternoon. I would encourage you to support LB168 and I'd be happy to answer any questions you might have.

**LOWE:** Thank you, Senator Bostar. Are there any questions? Senator Raybould.

**RAYBOULD:** Good afternoon, Senator Bostar. Thank you for coming here. Help me understand why was there a carve out for betting--

**BOSTAR:** Yeah.

**RAYBOULD:** --out of-- in the state of Nebraska or out of the state. How did that start?

**BOSTAR:** Yeah, that's a, that's a good question. Sorry, I shouldn't have looked over towards Senator Cavanaugh. That was an error. It was added sort of at the last minute in order to, I believe, gain one more vote for the bill package. It was not in the initial statutes that this very committee put together when creating these-- the, the gambling framework for the state of Nebraska. It was added on the floor at the last minute, like I said, and it was the desire of one particular senator to include this inconsistency in our law, and that's why it was put in. The, the thought was that, I believe, if I recall, at the time that, you know, we needed one more vote just to make sure the bill could, could pass. And this was effectively the price paid to get one more vote. And now we have an opportunity to fix our mistakes and to correct the law so that we aren't treating athletic competitions differently just based on the geography of where the games are being played. But truly, regardless of what you think of, of gambling and sports betting, and I personally don't participate, but we should treat it consistently. And that's what we're trying to do here.

**RAYBOULD:** OK. Thank you very much for the historical--

**BOSTAR:** Thank you for the question.

**RAYBOULD:** --reference.

**LOWE:** Yep, it, it was AM1427 by Pansing Brooks.

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**BOSTAR:** That sounds right.

**LOWE:** Yeah, with a, a vote of 31-4-10. That was where the amendment came from on the floor.

**RAYBOULD:** OK. Thank you.

**LOWE:** Are there any other questions? Seeing none, will you stay to close, Senator Bostar?

**BOSTAR:** Absolutely.

**LOWE:** All right, you don't want to go back to your committee.

**BOSTAR:** Thank you.

**LOWE:** Yes. Are there those proponents? And if you wish to testify on the bill, please move forward so we kind of have an idea of where we're at.

**LYNNE McNALLY:** Lynne McNally, L-y-n-n-e M-c-N-a-l-l-y, representing WarHorse Casino, Lincoln, Omaha, and South Sioux City. We're here to testify in support of Senator Bostar's bill. As you mentioned, Senator Pansing Brooks thought that this would help somehow ease stress on the kid. She kept calling it the kids in the state that they might be susceptible to influence or something. I think the main thing that has changed in, in the, in the time since then is name, image, likeness. Name, image, likeness is now the law of the land and there are now student athletes that are making more than the coaches because they have control over their own destiny now. I don't think that that's a concern any longer. I, I think that the only thing this accomplishes is that it pushes bets to Iowa on those days when we've got a big Husker game or something like that. And frankly, the, the weight is going to fall on that poor clerk that's taking the bet and somebody is going to get angry about why they can't place a bet. And, you know, they don't have anything to do with it. It's, you know, it's just whatever the law of the land is. So I, I really do think that it would be in everybody's best interest to just make it consistent. And you can, you can bet on these things, but not these things. It's already in the law, you know, the prop bets and things like that. So I would strongly encourage you to move this to the floor. I, I think it would be a really good thing. Any questions?

**LOWE:** Thank you, Ms. McNally.

**LYNNE McNALLY:** You're welcome.

**LOWE:** Are there any questions? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman. And thank you for being here.

**LYNNE McNALLY:** Sure.

**J. CAVANAUGH:** We talked about the betting part, what about the allocation of the money part?

**LYNNE McNALLY:** We don't have an opinion. That's your purview to decide where you think the money should be spent. I will say that as the sponsor of the initiatives that passed for gaming, we felt very strongly that the bulk of the money should go into the property tax relief fund. As you know, sports betting became legal around the same time, and the Legislature was the one that made the decision to legalize it and, and only allow it at the racetracks. So you can argue that there, there really hasn't been a determination of where the sports betting money should be allocated. I will tell you, Senator, that in Iowa, they wagered \$230 million in December. Now, they have online gaming so that's different. But I mean, it's a pretty significant amount of money in Iowa especially. So, you know, wherever you decide to spend the money, they're, they're probably going to get a really decent amount of money for it.

**J. CAVANAUGH:** So just to clarify, your position is that the ballot initiative did not legalize sports betting, but the Legislature did?

**LYNNE McNALLY:** Well, there was a determination that sports betting was legalized. We did not, we did not specifically envision that when it passed. And then there was a determination made that it was part of that.

**J. CAVANAUGH:** But so because of that determination, sports betting is taxed under the tax structure of about--

**LYNNE McNALLY:** Twenty percent. Correct. Yeah. Yeah.

**J. CAVANAUGH:** And this bill would divert some amount of that out of the property--

**LYNNE McNALLY:** Out of the property tax relief fund into the scholarship fund if, if you leave it in its current form.

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**J. CAVANAUGH:** And the amount that would be diverted is just on sports bets placed on games played in the state of Nebraska?

**LYNNE McNALLY:** No, it'd be everything.

**J. CAVANAUGH:** Oh, OK.

**LYNNE McNALLY:** Yeah, it would be everything. So, so any kind of sports betting, I believe, would be sent to the innovation fund, the scholarship fund. So it's, it's going to be a significant amount of money just so you know.

**J. CAVANAUGH:** OK. Thank you.

**LYNNE McNALLY:** Yes.

**LOWE:** Thank you, Senator Cavanaugh. The-- if, if a Nebraska team is playing in state,--

**LYNNE McNALLY:** Yes.

**LOWE:** --can you bet on the other team while they're playing in state? Might be a better bet. [LAUGHTER]

**LYNNE McNALLY:** I don't-- I think it's you can't bet on the game, isn't it? You can bet on the other team? Legal counsel tells me you can bet on the other team.

**LOWE:** All right. Thank you. Yeah, just not, just not Nebraska.

**LYNNE McNALLY:** Yeah, it's, yeah, it's, it's very odd.

**LOWE:** OK.

**LYNNE McNALLY:** And like I said, I'm concerned about that poor clerk that's got to explain to someone that they can't make that bet. People get angry.

**LOWE:** All right. Thank you very much.

**LYNNE McNALLY:** Yep.

**LOWE:** Any--

**HUGHES:** I think--

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**LOWE:** Senator Hughes.

**HUGHES:** Yeah, thank you, Chairman. So is the original thought that someone in state would influence an in-state kid to, like, throw a game or something?

**LYNNE McNALLY:** That's-- I think that was the philosophy that they felt that, that a player would be under undue pressure to not perform to their fullest extent or something like that. But like I said, the, the, the difference maker is in the game, the key players because of name, image, likeness, are, are making significantly more money from licensing and that kind of thing. There's no way that they're going to bring their stats down when everything is riding on that, you know, their NFL career, you know, their professional basketball career, whatever you say. And so I, I just think that that danger just doesn't exist. And I, I will tell you, I've, I've had a conversation with former Senator Pansing Brooks about this. And I do think that if you asked her, she would regret that-- she would say she regretted bringing this amendment.

**HUGHES:** OK. Thank you.

**LYNNE McNALLY:** You're welcome.

**LOWE:** Thank you, Ms. McNally.

**LYNNE McNALLY:** Thank you.

**LOWE:** Are there other proponents to LB168? Proponents? Seeing none, opponents to LB168?

**NATE GRASZ:** Good afternoon,--

**LOWE:** Good afternoon.

**NATE GRASZ:** --Chairman Lowe and members of the committee. My name is Nate Grasz, N-a-t-e G-r-a-s-z. I'm the policy director for the Nebraska Family Alliance, and I'm testifying in opposition to LB168 on their behalf. There are a, a couple of things I'd like to do with my testimony today, but primarily I want to help provide some more context and background to how we got to this bill today that I think will be helpful. So after voters approved the series of ballot initiatives to legalize casino gambling in 2020, the Legislature was tasked with passing legislation in the 2021 session to establish the legal framework necessary to implement what voters had approved. The

initiatives defined game of chance as a wager on, quote, a slot machine, table game, counter game, or card game. Notably, this did not include sports betting, and the sponsors of the ballot initiatives themselves have stated publicly that the ballot initiatives did not include sports betting and that it would have to be made up later. The primary vehicle used to implement casino gambling in 2021 was LB561, which also simultaneously expanded what voters had approved to include sports wagering. This was a concern for many senators, not just one, which led to several different amendments and proposals through all three rounds of debate, ultimately culminating in a compromise that allowed the bill to move forward with sports betting included with an amendment that prohibited wagering on in-state college teams playing in state. This amendment passed with strong bipartisan support, receiving 31 votes in favor and only 4 against. The bill in front of you today seeks to undo this bipartisan agreement that was reached just two years ago and to do so before sports betting has even started in Nebraska. I would also like to point out that there are at least a dozen other states who have authorized sports betting but prohibit gambling on in-state college teams playing in state. So this is not a new or, or novel approach. It's a reasonable protection. To quote NCAA President Mark Emmert: Our highest priorities in any conversation about sports wagering are maintaining the integrity of competition and student athlete well-being. Sports wagering can adversely impact student athletes and undermine the games they play. LB168 is an expansion of gambling that puts the interests of casinos over the interests of our coaches and student athletes, who I would remind the committee are as young as 18 and 19 years old. It would also likely lead to a surge of sports betting advertisements during college games in our state that studies show further normalizes gambling for kids. We urge the committee not to further expand gambling, especially while our state is still undergoing the largest expansion of gambling in state history. And lastly, there was a, a question as to whether or not you could bet on in-state games on the other team. And I don't believe that it's, it's accurate. If you look at the statute, it says authorized sporting event does not include an in-state collegiate sporting event in which an in-state college or university team is a participant. So my understanding is you would not be able to bet on any college sporting event in the state if a team from Nebraska is a participant.

**LOWE:** Thank you, Mr. Grasz, for clarifying things and for your testimony today. Are there any questions? I'm just going to say I was



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one of those that joined up with Senator Pansing Brooks for the amendment.

**NATE GRASZ:** Yeah, and we appreciate that.

**LOWE:** Any other questions? Seeing none,--

**NATE GRASZ:** Thank you.

**LOWE:** --are there other opponents?

**PAT LOONTJER:** Good afternoon, Senators.

**LOWE:** Good afternoon.

**PAT LOONTJER:** I'm Pat Loontjer, that's L-o-o-n-t-j-e-r, from Omaha. I'm-- for 28 years, I've been the executive director of Gambling With The Good Life. And for 25 of those years, we were successful in keeping the casinos out of the state of Nebraska. We'll never know how many lives we've saved, how many people did not file bankruptcy, how many homes were not destroyed because of gambling addiction. So we're very proud of that record. But once the 2020 election was over, we had to face the reality that we were going to have six full-blown casinos. And now we even have sports betting included in those. But our goal now is to restrict and to try to minimize the damage that's going to come from these humongous casinos that are now being built. We lost that election because there was a \$7 million campaign against us that said that it would be for property tax relief. We feel there'll be very little property tax relief. Nationwide, for every \$1 a state gains in gambling revenue, it will cost them \$3 in social costs. So although we will have something coming into the coffers, a lot more is going to be, be going out. And we believe that our job now is, is to oppose any additional and also to preserve what we, what we have. And last year we-- Tom-- we call it the Tom Osborne amendment, because Tom Osborne came down and testified about this particular bill and how strongly he felt about it. He cannot be here today. He had, he had other commitments, but he still feels the same. And, and he sent this to be read. He said gambling on sports context has expanded from betting on which team will win or how many points a team will win by to a myriad of gambling possibilities, such as how many total points will be scored by one or both teams. How many first downs, turnovers, passes, extra points will one team or both teams have. It becomes a gambling event rather than a sporting contest. And in the end, over time, the house always wins and people will lose money, many of which

cannot afford this. And often coaches and players bear the brunt of their ire. The more money spent on gambling, the more pressure there is on coaches and players to produce the results that the gambler desires. Sometimes coaches are vilified if they have won a game, but chose to substitute backup players so they could gain experience and also keep their first team players healthy. Coach's team will still win, but not by the number of points that the gamblers had bet on and the coach is criticized for doing his job properly. With the advent of players receiving money for their names, images and likenesses, there will be contact with people getting money to players and it could easily spill over into extra money to influence the outcome of the game. It's been quite a while since such scandals were common, but the situation will make the possibility much more likely.

**LOWE:** Ms. Loontjer--

**PAT LOONTJER:** There are plenty of things for those so inclined to bet on. We should not treat student athletes as if they were horses or dogs or a deck of cards or dice. They are human beings doing difficult tasks under a great deal of scrutiny and many are still in their teens.

**LOWE:** Ms. Loontjer, the red has come on.

**PAT LOONTJER:** Yes.

**LOWE:** I'm sorry. Are there any questions? Yes, Senator Holdcroft.

**HOLDCROFT:** Ma'am, would you like to make a final summary statement?

**PAT LOONTJER:** Bless you. When Tom came last year, he was-- he felt very strongly. He still feels strongly. He feels that the players are going to be influenced. If we can at least protect our Nebraska athletes, the young teens and try to protect them from all the pressure that they're going to have already that's, that's going to be coming at them with the sports gambling in other states. So we would just like to urge you to, to leave that amendment in place. Like Nate said, there are other states that have this and have done it to protect their athletes. And we would, we would ask that you would protect our Nebraska athletes.

**HOLDCROFT:** Thank you.

**LOWE:** Thank you, Senator Holdcroft. Could you please read the rest of Tom Osborne's letter?

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**PAT LOONTJER:** That really-- that was the end.

**LOWE:** OK.

**PAT LOONTJER:** The, the end, it said that last year-- this was passed when Tom testified-- the need to protect Nebraska athletes and not allow wagering on games. We knew it was just a matter of time until the gambling interests came back and tried to remove that restriction so they could take advantage of our youth and the integrity of our games. We need to say no to this bill.

**LOWE:** All right.

**PAT LOONTJER:** Thank you.

**LOWE:** Thank you very much. Are there any other questions? Seeing none, thank you--

**PAT LOONTJER:** Thank you.

**LOWE:** --very much.

**AL RISKOWSKI:** Good afternoon. Al Riskowski, it's A-l R-i-s-k-o-w-s-k-i. I'm actually on the Board of Gambling With The Good Life, but-- here in opposition to LB168. I was involved somewhat with the compromise, as was mentioned in regard to this amendment, and as I remember it as well, it was a real effort to protect the underlying integrity of Nebraska's individual sports is why we limited to the not betting here in the state of Nebraska. Really, I just wanted to bring up this afternoon how this can spread. And I think one incident that I want to speak to is the fact of what happened just last year at LSU and on their campus. There are eight universities that have done this now, and this is what LSU did last year. The athletic department sent out an email to the students stating and encouraging them to download the Caesars Sportsbook app so that they could bet on their own Louisiana team. Now I see a number of problems with these kind of things starting to happen across the country. First of all, of course, just targeting our 18- to 25-year-old students to bet on their own home team, of which they're going to know more about and much more likely to get involved with wagering than on a familiar team like their home team. But numerous studies have demonstrated that 18- to 19-year-olds that get involved with gambling have a much higher probability of becoming addicted. Secondly, there's additional problems with even our own student athletes. And in fact, that we're trying to protect the underlying integrity of the game, it seems like

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these kind of things only bring more pressure on student athletes to conform to those that are around them and the potential of affecting the outcome of a game. So with these added potential problems, I just would hope that General Affairs would vote no on this particular bill. Thank you.

**LOWE:** All right. Thank you, Mr. Riskowski. Are there any questions? Seeing none, thank you.

**AL RISKOWSKI:** Yeah.

**LOWE:** Good afternoon.

**GLEN ANDERSEN:** Good afternoon. My name is Glen Andersen, G-l-e-n A-n-d-e-r-s-e-n. I'm from Blair, Nebraska. I'm, of course, here in opposition to LB168. I don't know how much I can add to what we've already heard, but I feel like I'd like to add my voice here. We've got all these, these new casinos going up. They aren't even up yet and we're trying to, you know, change things. And I don't think it's for the better. And, though, this isn't a statewide thing, sports betting is still the most pernicious of all the types of gambling. When someone places a bet on the outcome of a game or on a performance of an individual player, he wants the outcome of the game to win him or her money. And that's the way it is. And some people will do what they can, bribes, otherwise to win that bet. We know those people are there. There's no doubt. And so this is a bill that affects our student athletes probably as much or more than anyone else. And it's likely to be the downfall of some of our cash-strapped student athletes. But I ask you, what is the justification or the reason for, for this bill? What is it? My guess is that it's so the casino can increase their revenue, increase their bottom line. They might make a deal out of part of the money going to the university, but the bottom line is that they're looking for an increase in their bottom line. And I think that's about all I can add right now.

**LOWE:** Thank you, Mr. Andersen, for coming down today. Are there any questions? Seeing none, thank you very much.

**GLEN ANDERSEN:** Thank you.

**LOWE:** Welcome.

**LORETTA FAIRCHILD:** My name is Loretta Fairchild, Lo-r-e-t-t-a F-a-i-r-c-h-i-l-d, economist. My heart is with rural Nebraska. Thank you, Senators, for your willingness to take the need for regulation

seriously. What is wrong with LB168? Both what it contains and what is omitted. The heart of the matter is regulation. A high level of regulation was promised for brick-and-mortar casinos, yet very little substance has been produced. Why not? Because the fox guarding the hen house has no real desire to do the work or pay the cost of actually enforcing regulations. I echo Mr. Andersen. Where is the push for LB6-- LB168 coming from? Even I know that anybody who wants to can place their online bets from their couch at home right now. So who needs LB168? Who is hoping to get personally rich from this change? Every action taken or not taken by this Legislature creates winners and losers. It is vital that each senator ask a lot of questions about exactly who will be most helped and who will be most hurt? Please don't vote LB168 out of committee until you have seen in writing a whole range of those specifically who are expecting to benefit both directly and indirectly. And until you have received a detailed set of regulations specific to Internet-based sports betting in writing, which have been well vetted by outside experts, nongambling industry people. Thank you for not putting the stamp of approval of Nebraska law on such a blatantly narrow special interest piece of legislation. Thank you for letting us root for our collegiate teams with a clear conscience. I'll quit now, but if you ask me, I could point out the high correlation between the Super Bowl and domestic violence or you could ask me about how sad the fiscal note is for LB168. Thank you.

**LOWE:** Thank you very much, Ms. Fairchild. Are there any questions? You mentioned the violence of sports gambling.

**LORETTA FAIRCHILD:** Domestic violence. Yes. Are you aware that the Super Bowl Sunday is highly correlated with the highest level of domestic violence across the nation? This is a very old correlation. It's been around a long time, but it's likely increasing. There was a mention made in the-- by a proponent of how angry bettors get when they're just told they can't place a bet. What happens in the house when that bet has gone south? That is well-established fact that predates sports betting, but it's not going to be helped.

**LOWE:** OK. Thank you. Are there any other questions? You state in your testimony that you were from the Panhandle?

**LORETTA FAIRCHILD:** I was raised on a small wheat farm outside of Chappell.

**LOWE:** OK. Very nice. And where, where do you, do you reside now?

**LORETTA FAIRCHILD:** Lincoln.

**LOWE:** In Lincoln. OK.

**LORETTA FAIRCHILD:** Yes.

**LOWE:** And you're an economist?

**LORETTA FAIRCHILD:** Yes.

**LOWE:** OK.

**LORETTA FAIRCHILD:** My whole issue about legislation is winners and losers--

**LOWE:** As an--

**LORETTA FAIRCHILD:** --and regulation.

**LOWE:** --as an economist, what do you think about gambling as, as a whole? Maybe that's too tough a question, too broad.

**LORETTA FAIRCHILD:** No, it's not-- it's, it's too, it's too long of a question. The I'm-- I will testify about some of the others as well. But the point is that sin taxes, we regulate things like the electrician. We-- Nebraskans expect that the electrician will know enough not to burn down your house. And we want to know that regulation that somebody is watching that electrician. Regulation is not an evil. It's a necessary piece. And yeah, Nebraskans are frankly quite allergic to the concept of regulation. Business should be allowed to do whatever it very well wants. But the assumption of that is that it's-- business is looking out for the state of Nebraska. Businesses are by definition looking out for profit levels and you all are looking out for the well-being of the state of Nebraska and the tool is regulation.

**LOWE:** All right. Thank you. Are there any questions? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Lowe. And thank you, Ms. Fairchild, for being here. You mentioned something about the fiscal note. Can you elaborate on what you meant about that?

**LORETTA FAIRCHILD:** Yes, it looks real simple and yet it's really sad. It just says no fiscal impact. Regulation requires substantial fiscal

impact so that the people with the right skills and the right credentials are looking under all the rocks to find the termites eating away at our social fabric. And this is where my comment about the electrician fits in. We have to regulate and that means you have to hire staff and there has to be fiscal impact. So our system to tell an overworked Department of Revenue, what's this going to cost in existing terms doesn't begin to answer the questions that you all need to focus on when we face up to the reality of the need for regulation. We, we have regulation in the retail of consumption of alcohol about how you're not supposed to serve people who are intoxicated. That has to be enforced. Where's the enforcement mechanisms? That's the big deal issue with all online betting.

**J. CAVANAUGH:** Just like to clarify, we don't have online betting in the state of Nebraska, right, legal online betting in the state of Nebraska.

**LORETTA FAIRCHILD:** I will leave the rest of you to answer that question.

**J. CAVANAUGH:** OK. All right. Thank you.

**LOWE:** All right. Thank you, Senator Cavanaugh. Any other questions? Seeing none, thank you.

**LORETTA FAIRCHILD:** Thank you all.

**LOWE:** Are there any other in opposition? Any other in opposition of LB168? Seeing none, those in the neutral? Welcome back.

**TOM SAGE:** Good afternoon, Chairman Lowe and members of the committee. My name is Tom Sage. Last name is S-a-g-e, 5903 Walker Avenue, Lincoln, Nebraska 68507. Senator Lowe and members, Commissioner Greckel is here. He was going to speak neutral on this bill, and I believe he still will. I, I really wanted to clear up a couple of things for the senator. I don't like to dispute other people's testimony, but I think it's very fair for the record. First of all, the way I look at LB680 or excuse me, LB168, just the intercollegiate sports revenue would go to the equal opportunity fund is the way-- or excuse me, the opportunity fund is the way I look at it. I'd like to discuss my fiscal note that was written. Yes, I do not believe LB168 has a fiscal impact on the Racing Commission-- Racing and Gaming Commission. We already have the regulations in place. The employees are already in our budget. That's why that fiscal note shows no

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impact. As you are aware, the Governor just recently signed rules and regulations for regulations of sports wagering. The commission just passed minimum internal controls. There is wide regulations in place. LB168 adding the intercollegiate sports, I do not believe changes our rules and regulations and I'll take any questions you may have.

**LOWE:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Lowe. Thank you for being here, Mr. Sage. Just to clarify, do we have legalized online sports betting in Nebraska?

**TOM SAGE:** No, sir, we do not.

**J. CAVANAUGH:** Under the current-- you don't have LB168, what's the way you could, you could place a sports bet?

**TOM SAGE:** Legally in the state of Nebraska, there is no way.

**J. CAVANAUGH:** All right. Well, I guess when we do-- once somebody--

**TOM SAGE:** When--

**J. CAVANAUGH:** --[INAUDIBLE].

**TOM SAGE:** Sorry, I misunderstood your question. When we do start sports wagering in the state of Nebraska, it will be within our brick-and-mortar casinos. And that will only be by a kiosk or in person with a teller within the racetrack enclosure, within the casino where the commission designates the, the sports wagering floor.

**J. CAVANAUGH:** So if somebody is betting-- placing sports bets from the couch at home, they're doing it illegally?

**TOM SAGE:** That is correct.

**J. CAVANAUGH:** OK. Thank you.

**LOWE:** Thank you, Senator Cavanaugh. Any other questions? Seeing none,--

**TOM SAGE:** Thank you, Senator.

**LOWE:** --thank you for that. Are there any-- is there anyone else in the neutral?



**SHANE GRECKEL:** I guess I will since I was named. Good afternoon, committee members, Chairman Lowe. My name is Shane Greckel, S-h-a-n-e G-r-e-c-k-e-l. I'm the vice chairman of Nebraska Racing and Gaming Commission. In regards to LB168, speaking in a neutral capacity today, I want to echo a lot of the sentiments that Director Sage has already said. The regulations and the minimum in control-- minimum internal control standards are extensive. Nebraskans are well-protected in that aspect. This bill, in the neutral capacity, as I said before, it, it really helps guide the commission in what is going on in regards to sports wagering upcoming. There's a lot of new legislation always being passed. We can always see this on the forefront coming in. Guidance such as this is always very helpful and I will try to keep everything brief and if there's any questions I can answer, I shall try.

**LOWE:** Thank you very much. Are there any questions for Mr. Greckel? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Lowe. And thank you, Mr. Greckel, for being here. Do you guys record illegal gambling at all or is there any tracking of the amount of illegal gambling going on in the state?

**SHANE GRECKEL:** There is high amount of metrics used to quantify a lot of measures. Illegal gambling by its own nature is illegal, sometimes untraceable. So it'd be very, very hard to quantify that number with something very substantial, I would think.

**J. CAVANAUGH:** OK. Thank you.

**LOWE:** Thank you, Senator Cavanaugh. It was brought up earlier about gambling on opponents of Nebraska. It was thought we might be able to gamble against the other team. Mr. Grasz brought up that it's not that way. In your opinion, what is?

**SHANE GRECKEL:** I have no opinion on that one.

**LOWE:** OK.

**SHANE GRECKEL:** I would, I would wait for legal counsel to weigh in on that one, what's a better avenue. When looking at that from an enforcement side, it's very difficult if you're on-- you can have an opinion one way or the other, but on the enforcement side of things it is always best to err on the side of caution and with guidance from the Legislature and legal counsel.

**LOWE:** All right. Thank you. We'll find out the answer. All right. Thank you, Mr. Greckel.

**SHANE GRECKEL:** Thank you.

**LOWE:** Is there anyone else in the neutral for LB168? Seeing none, Senator Bostar.

**BOSTAR:** Thank you, Chairman Lowe and members of General Affairs Committee. I just want to take just a couple of moments to address some of the things that came up. As was clarified from one of the neutral testifiers, it's only the what would be new funds. So the tax revenue that would be created by allowing the, you know, betting-- the wagering on in-state teams playing in state. That's the only provision that would, would go to the Opportunity Grant program. Domestic violence came up, and, and it's true. You know if you look at domestic violence rates around something like the Super Bowl, it, it spikes. There's no question about it. It spikes for states that have gambling. It spikes for states that have no gambling. In fact, domestic violence spikes around sporting events. Large-- the larger the event-- televised event, the more domestic violence takes place in, in timing associated with that event. So-- and that is something that we should care about and we should be looking at and figuring out how do we, how do we try to prevent that. So I appreciate that bringing up, but that isn't specifically a, a, a wagering issue. It was mentioned that we don't want this to happen. You know, the reality is the vast majority of our state's population is on the eastern side of the state, where they've been betting on the Huskers for a long time. And they've been doing it legally by just crossing the border into Iowa. Of course, they are currently doing it illegally as well. I've gotten a lot of feedback since I introduced this bill, which surprised me. I didn't expect this to be as consequential as it seemed, and, and mostly, mostly positive. But, you know, right now there are individuals who will use a virtual private network on their computer to appear to be located in a place where online gambling is legal, and they'll just place their bets. Right now, we are allowing the betting. We're, we're allowing wagering on Nebraska teams right now. So the idea that somehow this will change the pressure dynamic, I don't really understand because we're doing it now. If they're playing in Iowa, we can legally bet on them. I mean, once the rules and provisions are enacted, but our framework allows for it. This isn't really doing anything new. And I think maybe the last thing I want to talk about is that this was special interest driven and this is an effort by the casinos to make more money. And, and truly, I am sorry to disappoint

everyone. I knew I was bringing this bill the day that amendment came on the floor because it didn't make any sense. We also made national news from that amendment. I mean, we were-- Nebraska was talked about a great extent after we put this in because-- and it was brought up too that this exists in other places. From what I've been able to find, it's true that there are states that don't permit the wagering on their home teams, in-state teams when they're playing at home, but it's because they don't allow wagering on their home teams, period. So they also don't allow it when they're playing away. Right? And that's where this is peculiar, what we're doing here. We don't have consistency in the law. I brought this on my own. No one asked me to bring it. I suppose if the casinos wanted someone to bring it, they'd probably ask a member of this committee to do it and not someone who just walked out of the Banking Committee. So, yes, this is a bill of my own making. I thought the Opportunity Grant scholarship, putting the funding there was just a good idea because I think that there's a risk that lottery funds will go down as we increase gambling access. And right now, that's how those scholarships are funded. They're funded by the lottery. So I'm, I'm worried about them. I'm worried about the access that, that these kids who rely on these scholarships will have. So with that-- and truly as someone who doesn't participate in really gambling at all, and I don't have strong feelings about it at all, I certainly enjoyed the conversation. Anyway, I'd be happy to answer any final questions.

**LOWE:** Thank you, Senator Bostar. Senator Hughes.

**HUGHES:** Thank you, Chairman. Thank you, Senator Bostar. So just one question. So the money that would go on the scholarship comes from just some money that would be bet on the home Nebraska games?

**BOSTAR:** With-- yes. So--

**HUGHES:** And is that-- like, can-- that's easy to keep track of from the-- where it happens, I guess?

**BOSTAR:** I, I, I--

**HUGHES:** I mean, I know it's like 20 percent of it.

**BOSTAR:** I mean, it's an accounting issue. It's an accounting question. Right? So if, if-- I would imagine-- and, and truly, you know, this committee will know better than I do. A lot of you were-- several of you were here when these regulations were created.

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**HUGHES:** Not me.

**BOSTAR:** But, you know, we also heard from folks who talk about the level of oversight and enforcement that's around. That's great. These wagers have to be tracked, you know.

**HUGHES:** OK.

**BOSTAR:** And so, yeah, I would imagine that it wouldn't be too difficult to know where this revenue originated.

**HUGHES:** Thank you.

**LOWE:** Thank you, Senator Hughes. Are there any other questions? You brought back up the domestic violence.

**BOSTAR:** Yeah.

**LOWE:** Are you saying that if you, if you would normally just watch a game, violence would come up, but you're not saying that it wouldn't increase because you bet the car on the game. And now you've lost the car, the domestic violence wouldn't increase more?

**BOSTAR:** What I'm saying is we see a significant problem with this whether there's access to gambling or not. A marginal increase I can't speak to, but I, I can say that I think it's a serious problem and we should be doing everything we can to address it.

**LOWE:** Thank you, Senator Bostar. Other questions? Thank you very much for bringing LB168.

**BOSTAR:** Thank you.

**LOWE:** And that closes the hearing on LB168. We will trans-- transfer into LB232, Senator Cavanaugh's bill. Welcome, Senator Cavanaugh, to your General Affairs Committee.

**J. CAVANAUGH:** Thank you, Chairman Lowe and members, fellow members of the General Affairs Committee. I'm Senator John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I represent the 9th Legislative District in midtown Omaha. I'm here to introduce LB232, which would provide for digital-on-premises tickets for keno games. To those returning members who remember this issue, is something we've discussed in the last two sessions. Today, any keno play must occur with a paper ticket and be administered by an employee that is approved by the locality and state

to operate the keno game. The wagers can only be made with physical cash, and there are five minutes between keno games. LB232 would modernize the way keno can be played. This is not a mandate, but for those customers verified to be at an approved location within a county, city or village that is a approved digital keno, a keno ticket could be purchased in a digital format on a mobile device. The customers would have, would have to have an account and be allowed to transfer funds to that account, but only if the balance of the account would not exceed \$500 after the deposit is made. This-- the bill would prohibit a transfer of funds from a credit card or purchase of a ticket from a credit card. LB232 has the safeguards-- these safeguards to ensure keno play cannot occur outside of the licensed facility through geofencing technology. LB232 allows keno operators and players to modernize. Just as we order flights, order groceries, pay parking meters, and order lunch, LB232 allows an option to purchase a ticket to play keno-- a keno game at a licensed bar or restaurant. This also would be a helpful tool for those bars and restaurants that do not want to take time from their service employees from serving food and drinks. Those behind me can speak to the technical details of the keno operations and how the county and city lottery funds benefit our communities in Nebraska. I'd ask the committee to advance LB232 to General File and I'd be happy to take any questions.

**LOWE:** All right. Thank you, Senator Cavanaugh. Are there any questions? Looks like everybody's reserving them for your closing. Will you be sticking around?

**J. CAVANAUGH:** I will stick around.

**LOWE:** All right. All right, we will now move to proponents of LB232. Welcome.

**BILL HARVEY:** Thank you, Senator Lowe, members of the committee. Appreciate you giving me the time to speak here today. My name is Bill Harvey, and I'm the general counsel for Big Red Keno. And my name is spelled B-i-l-l H-a-r-v-e-y, and I'm here today in support of LB232. Big Red has been a company-- Nebraska company operating here for more than 30 years. We operate under the Nebraska County and City Lottery Act providing keno lottery services to a variety of cities, large and small. And over that 30-year period, that revenue has become quite important to many of those cities that we serve. LB232 for digital-on-premise keno lets communities follow-- allow folks to play keno using their mobile phone instead of paper and a crayon. It's really a very simple technological update. The player has to be

present at the licensed keno location just as they are today. Payment would be made by debit card, bank account, cash balance of a, of a payment app or a prepaid cash account. And I would note that those are basically the same forms of payment, debit card, cash account, so forth, that, that this Legislature allowed last year for casinos. So it really is just parallel when we look at that and they prohibit credit cards at casinos. So in that, in that sense, it really is parallel. And it's that simple, everything else about the game remains the same, including the requirement for five minutes between games. Credit cards are not accepted. Each city can decide with their operator whether to adopt this change. So if a city decides they don't want this, it's-- this is a city-run game, and the, and the city can have that choice and we'll honor that choice, obviously. LB232 is a simple technological update to the way keno can be played. And I think it's very interesting. I, I hadn't seen this until I was preparing for my testimony today, but I note that the fiscal note for this is basically neutral. It shows no cost for regulation, which is already in place for keno and has been and it's-- the fiscal note comes from the Department of Revenue, which has been regulating keno for 30 years. So I would think they would know. They also anticipate no revenue impact from this and I tend to agree with that and I've said that in my testimony before this committee before on this bill. The Department of Revenue, I see agrees with that. But I will tell you there will be a revenue impact if we can't make these kind of updates and stay current with technology, we'll see these dollars begin to dwindle that cities have counted on. I think it's really important for us to stay current and keep this important revenue source for cities. So I really thank you for your time today. Happy to answer any questions.

**LOWE:** Thank you, Mr. Harvey. Yes, Senator Raybould.

**RAYBOULD:** Thank you for coming to testify. For the folks that have the, the, the keno in their facilities, the-- I guess you call them the operators, are they going to be responsible for the upgrades or cost for that geofencing?

**BILL HARVEY:** No, because it's really all done over the Internet. We'll, we'll be responsible-- the operator will be responsible for that cost. So there's-- there will be probably a-- and I suppose it could vary from operator to operator. You know, some offers might say, well, you have to put it in the little, the little tower that you need for the geofence. But I know in most locations throughout Nebraska the

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operator bears the cost of the equipment. So I know in our locations we would bear that cost.

**RAYBOULD:** OK. Thank you.

**LOWE:** Thank you, Senator Raybould. Are there other questions? I guess nobody's on my right side anymore. Do you see-- do you think that there will be a-- less keno played as gambling fires up here in the next year or two?

**BILL HARVEY:** I, I absolutely do. And I, I think the, the basis for that is, is "couplefold". Number one, when we saw the casinos open in Iowa, it had a, a pretty substantial impact on the keno, particularly in Omaha. And so we're anticipating an, an impact from the casinos, from the casinos, you know, coming to the state. And it's going to be across the state as opposed to just, you know, in the eastern part of the state this time. I also think if you look at the game of keno in casinos, it's really dwindled all year-- over the years. You know, casinos in Vegas and other locations that have casinos always used to have a keno game. And now that's not necessarily true anymore. Sometimes they make space for it, sometimes they don't. They can actually make a lot more revenue with their slot machines, table games, and so forth. And so you do find keno still in some casinos, but, but it's not a, it's not a lot that you're going to find it in every casino. And, and so I really do think keno will suffer. And the thing about that is cities that have-- are getting a casino, they're going to get some revenue to replace that, you know, to some extent. Although this is, it's a separate pot, separate revenue source, you know, so that's not always a great-- the best substitute. But cities that don't have a casino, city of Ralston for example, they get no revenue from the casino. And I think cities like that, that will, will definitely be impacted by the casino and also rely on the keno revenue are really going to be impacted by this kind of thing. And I-- and we heard that from the-- I remember from the Ralston city administrator last year on, on the same bill.

**LOWE:** All right. Thank you, Mr. Harvey. Any other questions? Seeing none, thank you.

**BILL HARVEY:** All right. Thank you. Thank you, Senators. Appreciate it.

**LOWE:** Other proponents? Good afternoon.

**MICHAEL NEVRIVY:** Good afternoon, Senators. My name is Michael Nevriy. It's spelled M-i-c-h-a-e-l N-e-v-r-i-v-y. I'm here today to testify in support of LB232. Excuse me. I live in Hastings, and I operate keno games for cities and villages and in unincorporated towns across Nebraska, including Hastings, Kearney, North Platte, McCook, Crete, Saint Paul, Odessa, Lawrence, Albion, and seven other communities. Keno has provided community betterment revenue to counties, cities, and villages across Nebraska for more than 30 years now. Keno has become an important source of revenue for projects that have become-- have, have-- would otherwise have had to be paid for with tax dollars, especially state dollars as state dollars continue to dwindle to cities and towns, things like police cars, fire department equipment, computers for public libraries, and community playground equipment. It is regulated by the Department of Revenue, overseen by the local community and run by the Nebraska-- by local Nebraska companies like myself. The community controls where and how the game is conducted. The proceeds from keno go to the community to be spent as that community determines. Local option, local control, and local revenue are the reasons keno has been so successful in generating community betterment revenue for so many years. Many of, many of the communities we work for have told me that they are concerned about the effect that the casinos will have on their keno revenue. I, along with the vast majority of Nebraskans, support the opening of casinos on the promise that they will bring much needed property tax relief across the state. But the loss of that keno revenue could be significant, especially for those communities that have no casino. The digital-on-premise keno ticket simply gives us a fair chance to compete on a level playing field. As we sit here today, anyone with an account can place a bet with a Nebraska horse track on their phone from anywhere in the state. We just want to let our keno customers do the same thing with one important difference, this bill would require the player must be physically present at a licensed location. In other words, keno would continue to operate only in the locations where it is allowed now. What we are asking for is a modernization that has touched every other industry. Instead of making a keno ticket with a crayon and paper, players will be able to make their ticket digitally. We believe this will help keno stay up to date with current technology and help preserve the community betterment revenue, which has been so important to so many local communities. I thank you for your time and I'd, I'd be happy to answer any questions you might have.

**LOWE:** Thank you, Mr. Nevriy. Are there any questions? You said that you could place a bet online to any horse track in Nebraska?



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**MICHAEL NEVRIVY:** Yes, that's gone on, I'm not sure for how long, but I know it's been over five, five to ten years that you can bet online with Nebraska horse tracks.

**LOWE:** OK, I--

**MICHAEL NEVRIVY:** And it's not geofence.

**LOWE:** I--

**MICHAEL NEVRIVY:** You can bet anywhere.

**LOWE:** I had not heard of that. I think several people haven't heard of that before so we'll look into that.

**MICHAEL NEVRIVY:** OK.

**LOWE:** Thank you. Any other questions? Seeing none, thank you for coming down.

**MICHAEL NEVRIVY:** Thank you.

**JACK CHELOHA:** Good afternoon, Chairman Lowe and members of the General Affairs Committee. My name is Jack Cheloha. That's spelled J-a-c-k, last name is C-h-e-l-o-h-a, and I'm the registered lobbyist for the city of Omaha. I want to testify in favor of LB232 this afternoon. I want to thank Senator Cavanaugh for bringing the bill. Likewise, I want to thank Big Red for their testimony. Big Red is the contract provider in Omaha for our city county lottery or our keno game, if you will, so. Right now, we budget roughly \$12 million a year in terms of, of revenues off of our Big Red Keno game. In Omaha, we have one main location for the game, but then there's roughly 190 satellite locations within the city limits. With that, the money can-- that is raised, the revenues that come back to us can only be used for community betterment purposes and so in the history of the 30 years that Omaha has had such a game, we've utilized those funds from-- for everything from buying police cruisers to funding our city-- it's called the Nebraska Humane Society, which is animal control within the Omaha area. We've used it with our chamber of commerce on economic development, educational programs for, for workers. We've done support for various museums and grant funding for various social 501(c)(3) groups within the Omaha area. And so the, the revenue has been important to us. We see this change that's just modernizing the game. It would be convenient for people to be able to have a ticket on their wireless device. There's safeguards in place. We appreciate the fact

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that the city of Omaha would have to approve the use of the online tickets in Omaha if that's an option. And likewise, if we don't like it, we can, I assume, discontinue it as well. For those reasons, we're supportive of LB232 and would ask you to advance it to the full Legislature. Thank you.

**LOWE:** Thank you, Mr. Cheloha. Any questions? Seeing none, thank you.

**JACK CHELOHA:** Thank you.

**LOWE:** Welcome.

**LYNN REX:** Thank you. Senator Lowe, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. I'm handing out to you the annual report of the Charitable Gaming provision-- or Gaming Commission [SIC], rather, and of the Nebraska Department of Revenue and I'd reference you do page ten. Page ten outlines the keno games. By the way, I'm representing the League of Nebraska Municipalities in support of this bill. We really appreciate Senator Cavanaugh introducing this measure. And you'll note that this outlines on page ten the gross wagered expenses, taxes, and profit. If you turn the page, you're going to see the number of cities, counties, and villages in the state of Nebraska that have had voter-approved keno operations. A city council, those [INAUDIBLE] themselves, cannot just simply do this. It takes a vote of the people. This is very important in terms of the types of revenue that's being raised for this. As Jack Cheloha noted from Omaha, these funds can only be used for community betterment purposes. That's defined in 9-604 in terms of what is community betterment. And essentially municipalities in this state have used these funds to do that which they otherwise simply would not be raising taxes to do. So we would be happy to answer any questions that you might have. We think this bill is really important. It's one of those bills that has had a long-standing impact to help municipalities and groups all across the state provide those types of services that is needed, that are necessary, but simply don't have the tax dollars to provide. With that, I'm happy to respond to any questions that you might have.

**LOWE:** Thank you, Ms. Rex. Senator Raybould.

**RAYBOULD:** Thank you, Ms. Rex, Is there any political subdivision that doesn't have keno that you're aware of?

**LYNN REX:** Yes, there are.

**RAYBOULD:** Oh.

**LYNN REX:** There are 529 cities and villages in the state of Nebraska. And I should have added up the number here, Senator, but I did not. But you'll see that there are just a, a number of them that do. It's been a very important type of benefit for cities and villages. And I think, too, initially there was some concern about, well, should cities approve it or should they not approve it? Should villages do it or not? And you'll see it's pretty broad based. And that's true for counties, too.

**RAYBOULD:** Yeah.

**LOWE:** Thank you. And thank you, Senator Raybould. Any other questions? Seeing none, thank you very much.

**LYNN REX:** Thank you very much. And again, thanks to Senator Cavanaugh.

**LOWE:** Any other proponents of LB232? Opponents of LB232?

**NATE GRASZ:** Good afternoon, Senator Lowe, members of the committee. Again, my name is Nate Grasz, N-a-t-e G-r-a-s-z, testifying in opposition to LB232 on behalf of Nebraska Family Alliance. Keno may seem like a fairly innocuous form of gambling to many, but the changes under this bill could change that dramatically. These are not minor changes simply to keep up with the times. By removing our current cash only and paper ticket requirements, the bill is eliminating important consumer protections that limit addiction and financial losses to citizens. Authorizing digital keno and accepting wagers by debit cards and digital accounts linked to bank accounts means that people can gamble on mobile phones in bars and restaurants across the state. And as we talked about earlier, that's something that you can't currently do legally. Keno is designed for people to lose. The more you play, the more you lose. And the bottom line is that the changes proposed under this bill make it so that people can lose more money more easily. It is well-established that electronic forms of gambling are the most addictive form of gambling. Many citizens also have jointly shared financial accounts and debit cards. This bill does not account for that. Someone could lose their spouse's or their family's entire savings account gambling by themselves on their cell phone in a bar. That's not good public policy. The Legislature should seek to protect the public rather than encouraging them to make decisions that are against their own financial interest. For the state to win, it's our own citizens who have to lose. And it's usually those who can afford

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it the least who lose the most. For these reasons, we respectfully urge the committee not to advance LB232. Thank you.

**LOWE:** Thank you, Mr. Grasz. Any questions? I know in the past when we've done gambling bills, there's always been one or two people here that have come in to testify of, of how they've lost their positions or their family's money. Is that a problem with keno?

**NATE GRASZ:** It, it certainly has been. I don't know if we have anyone here today specifically, but again, any, any form of, of gambling, particularly state-sponsored gambling, sort of puts the, the interests of the state at odds with the best interests of the citizen, because it's now less about protecting someone from making harmful or potentially addicting decisions, but trying to exploit that person to, to gain as much money as than from, from you can. But certainly we have heard from people and from families who even through, through keno have experienced gambling problems and, and taking on, on debt. And I think the changes under this bill can make that more likely to happen for, for more people going forward.

**LOWE:** All right. Thank you. Any questions? Seeing none, thank you for testifying.

**NATE GRASZ:** All right. Thank you.

**LOWE:** Others in opposition?

**PAT LOONTJER:** I'm back again, committee. I'm Pat Loontjer, L-o-o-n-t-j-e-r, executive director of Gambling With The Good Life for 28 years. And this bill especially, is what we're concerned about as far as expanding gambling. Even though they claim it does not expand, it does. It expands it greatly, turns it into electronic, it turns it into being able to use your phone instead of a paper ticket. It-- we're, we're concerned about the, the debit because, like Nate said, you could, you could sit-- someone could sit there in a bar and wipe out their whole checking account before they go home. And we just want to urge you not to allow this to happen. We believe that doctors abide by a Hippocratic Oath that says "do no harm." And, and I feel that the senators are in the same category as those doctors, do no harm. This will harm people. We don't know, can this get into the hands of someone underage? Who's going to restrict that, that a young person can come in and use the phone or use their parents debit card and, and disaster results? So we would just ask that you really think carefully about this. It is expanded gambling. Every year the keno

operators come back. For 28 years, they've come back and asked for something, shorter time periods and different restrictions. This one's probably the boldest they brought in, in many years. It is a great form of, of expansion so we would vote you-- ask you to vote no and protect our, our, our citizens.

**LOWE:** Thank you, Ms. Loontjer. Are there any questions? Seeing none, thank you.

**AL RISKOWSKI:** Yes, Al Riskowski. It's A-l R-i-s-k-o-w-s-k-i. And again, thank you for the time to be able to testify. I understand the funds and the need for worthwhile projects in our cities and some of our counties. I understand the idea of wanting to modernize, but the bottom line is to take advantage of our Nebraska citizens is not the way to do this. And many casino machines are located in a bar. Numerous studies have been done on alcohol and drunk driving. It's been discovered that just two drinks can create impaired and poor judgment for many people. Well, you can apply that also to the debit card that could be used if this were to pass. That after only a couple of drinks, an individual has impaired and poor judgment. And it's very easy then if it's on your cell phone and using a credit card to lose track of how much money you're actually losing and to wipe out your checking account. That's the nice thing about the slowness of what we currently have. You have to use cash, and I realize there are ATM machines there, but it's still much different when you have to go to an ATM machine, get the cash money out and place it on a bet. It makes you consider what you're doing to a greater extent. So I appreciate your time listening and I pray that the-- hope the committee will oppose LB232.

**LOWE:** Thank you, Mr. Riskowski. Are there any questions? If we-- if Senator Cavanaugh would choose to amend this so that it would be a cash in, cash out so that they would have to get up from their seat to go by cash to pay for ahead or behind whatever they, they need to do, would that be better?

**AL RISKOWSKI:** It would certainly improve the bill because, again, would slow it down. I think, as Pat Loontjer noted, in years past, a number of times keno have come to increase the speed between games because I believe it's five minutes and they'd like to see it much faster. Well, putting it on your phone would make that capability much more there. But certainly at least having to get cash would help an individual not as, not as likely to check out-- to, to wipe out their checking account.

**LOWE:** You could--

**AL RISKOWSKI:** You can even-- some people's debit cards are even connected to their savings account to cover for it so you can spend that money.

**LOWE:** Yeah. All right. Thank you. Any other questions? Seeing none,--

**AL RISKOWSKI:** All right. Thank you.

**LOWE:** --thank you. Are there other opponents? Other opponents? Hello.

**LORETTA FAIRCHILD:** I am still Loretta Fairchild, economist, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d. And my heart is still in rural Nebraska. Thank you, Senators, for the serious attention you are giving to the issue of regulation. What is wrong with LB232? The fig leaf of regulation is too thin to be credible. The keno industry in this bill is dictating to the state of Nebraska what shall be approved and setting several timelines that are so short they can't possibly be met with anything other than a rubber stamp of you in telegram to all senators and all voters. When regulation is needed, the state is in charge of dictating to the industry, not vice versa. Where is the detailed report from outside experts on what pieces need to be in place to even begin to regulate online gambling? Where are the examples from other states where online Internet gambling, whatever you want to call it, has been successfully regulated over the last five years or even three years? Which state agency in Nebraska should be doing the regulation? How many computer experts with what kind of digital investigating skills will be hired by that regulatory unit? How long will it take to hire them? What salaries will be needed to keep them in Nebraska? Where is the detailed report on how age limits have been successfully enforced in any gambling areas within the U.S.? Why are totally empty promises of enforcing age limits being presented to you? Why is the age limit not 21? Please don't let LB232 out of committee until you have received in writing a serious estimate from nongambling industry experts of the actual cost of enforcing regulations. Please make sure it has all been well researched, well documented, and factually presented without any timelines included. I'll quit here, but I would like to be able to address the issue of loss of revenues to keno industry. Thank you.

**LOWE:** Thank you, Ms. Fairchild. Are there any questions? You mentioned the loss of revenue to the casino industry.

**LORETTA FAIRCHILD:** That is the purpose behind this legislation, as I understand it. And what I would like to point out to you is that every business in Nebraska is suffering from loss of revenues because of the casinos. They are all competing for Nebraska dollars. So why are you looking at just looking out for keno? Why isn't there some legislative interest in what are we doing to help all the rest of the businesses that are losing sales to casinos? That's-- there's no new money in this. It's coming out of one pocket going into another. So to say keno has a terrible problem, well, of course, those who voted for casinos knew that. So why does the casino-- does the keno industry need more help than any other recreational business or a grocery store?

**LOWE:** All right. Thank you very much. Appreciate your testimony.

**LORETTA FAIRCHILD:** Thank you.

**LOWE:** Any other questions? Seeing none, thank you very much. Are there other opponents to LB232? Seeing none, those in the neutral?

**BRIAN ROCKEY:** Good afternoon, Chairman Lowe and members of the General Affairs Committee. I'm Brian Rockey, B-r-i-a-n R-o-c-k-e-y. I'm the director of the Nebraska Lottery and Charitable Gaming Division of the Nebraska Department of Revenue. I'd like to give you a little bit of background about the keno landscape and the regulatory landscape in Nebraska and then-- and it's fairly brief. The Department of Revenue has five field inspectors that monitor charitable, charitable gaming, tobacco tax, mechanical amusement device, and-- excuse me-- cash device compliance. Those inspectors work closely with the department's investigations unit, which includes deputy state sheriffs that are commissioned by the State Patrol, similar to what Mr. Sage mentioned earlier, that he and some of his staff are, are deputy state sheriffs. Together, they ensure compliance with relevant laws and regulations applicable to the department in the areas that we oversee. On the keno landscape to Senator Raybould's question about the number of jurisdictions, there are 180 county/city entities in the state that are licensed to conduct keno. Among them are 166 operators, and together they operate 779 sales outlets. I would like to give a, a shout out to or thank you to Lynn Rex from League of Municipalities for highlighting our annual report. I'm glad to see you taking-- making use of it. Excuse me. Of the more than 6,000 inspection activities that took place in 2022, 363 were keno cash drawer audits and 25 were installation activities. The division has had discussions in recent years with the operators regarding the availability of digital tickets. As part of the growing technology used in our society

today, we believe this request is reasonable and that the same technology that offers this convenience would enable us to verify the locational restriction of the offering of the geofencing. I'd be happy to answer questions at this time.

**LOWE:** Thank you, Mr. Rockey. Are there any questions? Senator Holdcroft.

**HOLDCROFT:** I'm just curious, you say you've audited casino-- or not casino--

**BRIAN ROCKEY:** Keno.

**HOLDCROFT:** --keno drawers, and how often do you find any discrepancies?

**BRIAN ROCKEY:** Occasionally, and usually it's a matter of it's a little long or a little short. And there are some operators that voluntarily report to us. So we'll get a report throughout the week that, that an operator was long or short with their drawer. It's usually not a drastic situation. We do have, we have, we have a keno tip line, if you will, and we get calls from time to time from players or operators that are concerned that somebody is maybe playing when they're not supposed to be if they're on duty or if they've signed in with a, with a different log in. And we investigate those as well. The, the audits are, are really just a random matter of course. If there is significant concern or evidence that there's a real problem with an operation, we turn that over to the Department of Revenue's audit group and then they do an extensive audit.

**HOLDCROFT:** OK. Thank you.

**BRIAN ROCKEY:** Um-hum.

**LOWE:** Thank you, Senator Holdcroft. Any other questions? You, you have five inspectors for 779 outlets. Is that enough?

**BRIAN ROCKEY:** If they had to be there every day, obviously not. But where they're-- they basically are circuit writers. So one inspector covers the, the Omaha area, one covers southeast, one covers northeast, one covers the central third, and then one covers basically North Platte, north and southwest. A lot of it's based on the number of locations that they have to visit. So, for example, there are 2,200, I think, tobacco licenses in the state, but a lot of them are the same locations that have cash devices or offer keno or mechanical



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amusement devices. So a stop at one location might result in three or four audit enforcement activities, audit activities.

**LOWE:** Thank you.

**BRIAN ROCKEY:** Thank you.

**LOWE:** Seeing no other questions, appreciate you being here.

**BRIAN ROCKEY:** Thank you.

**LYNNE McNALLY:** Chairman Lowe, Lynne McNally, L-y-n-n-e M-c-N-a-l-l-y, representing the Nebraska Horsemen. The answer to your question is TwinSpires. TwinSpires and other out-of-state providers are illegally taking bets on horse racing as we speak. They have been for 15 years. We have made numerous attempts to stop them because anything wagered on these platforms, not a penny of it goes to support live horse racing in the state. Nothing. They give us no money, no revenue. They don't give the Racing Commission any revenue. Nothing. The Racing Commission worked with the Nebraska HBPA to go to the Attorney General. This was several years ago. I believe it was ten years ago. The Nebraska Attorney General wrote all of these vendors a letter and said, cease and desist. This is illegal in our state. I think TwinSpires wrote back, so what, we're out of your jurisdiction, and it's been proliferating ever since. Our only hope, frankly, is that a lot of them have cooperative agreements for-- with sports betting platforms. So we're dearly hoping that they apply for a, a gaming license in the state, because then Commissioner Greckel can say, oh, well, you've been taking illegal bets this whole time, I don't think that you qualify to get a license. That, that is our only hope of stopping this, frankly. So when, when keno talks about how that's legal already and they should be allowed to do it, I just want to clarify, it is not. And these bets are, are unwanted and damaging horse racing.

**LOWE:** Thank you. Are there any questions? Thank you.

**LYNNE McNALLY:** Thanks.

**LOWE:** Are there any more in the neutral for LB232? No more neutral. Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Lowe and members of the General Affairs Committee. Don't have a lot to add. I appreciate everybody being here and I especially appreciate the constructive criticisms.

You know, I think there are other ways to implement this besides the way it's written in LB232 and be happy to talk with folks about how to do that. But just to make sure we all are clear on what we're talking about, LB232 would not allow for credit cards, would allow for debit cards, but only up to \$500. So there would be a limit on the amount that somebody could bet. It wouldn't change the amount of time so games would still be played only every five minutes. So somebody couldn't-- just because you have a mobile device or buying a ticket on a mobile device doesn't mean that the game is actually going to be played any faster because the game will still be that central location where it's sent out. Really what it will do is allow bartenders or waitresses or whoever is the person responsible for selling the keno tickets to focus on the service aspect at some of these bars and restaurants and allow individuals to buy their keno ticket without going up to the bar. The bars will still be, you know, there would be the geofencing. You still have the obligation to make sure that people inside of your establishment, just like any other obligation of the bar not allowing underage people to play keno by buying the regular tickets. But with that said, I think that covers everything everybody said. As to the horse, horse betting part, I don't, I don't know about that, I guess.

**LOWE:** All right. Thank you, Senator Cavanaugh. Are there any questions? Seeing none, thank you very much.

**J. CAVANAUGH:** Thank you.

**LOWE:** As far as the letters, there were five opponents, no proponents, and zero in the neutral. And on LB168, there was one letter that was a proponent, eight letters of opponent, and zero in the neutral. And we will now switch to LB775, I believe, or LB311 and I will have Vice Chair Hughes take over.

**HUGHES:** Senators are dropping like flies.

**RAYBOULD:** Yeah.

**HUGHES:** Me and Jane left.

**RAYBOULD:** I think it's LB775.

**LOWE:** We'll do LB775 first.

**RAYBOULD:** OK.

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**LOWE:** We'll do LB775.

**HUGHES:** We are going to do--

**LAURIE HOLMAN:** Oh, LB775? OK.

**LOWE:** I think the thing is missing.

**HUGHES:** All right. We will have the hearing for LB775 with me. Go ahead, Senator Lowe. Thanks for coming.

**LOWE:** Hey.

**HUGHES:** Hey.

**LOWE:** Glad to be here. Good afternoon, Vice Chair Hughes--

**HUGHES:** Hello.

**LOWE:** --and no members of the committee. My name is John Lowe. That's J-o-h-n L-o-w-e, and I represent District 37. I'm here today to introduce LB775. LB775 is a bill drafted for the benefit of the commission, and it makes some necessary changes and additions to the Racetrack Gaming Act. We're proposing an update to the definition of, of licensed racetrack enclosure to provide a more specific language, which is appropriate given the expansion, expansion of horse racing that is taking place currently, and that we now are building casinos at licensed racetrack enclosures. LB775 also contains new language to allow the commission to recommend changes to the laws that, that are administered by the commission to the Governor and to the Legislature. This is similar to the authority the Liquor Control Commission has and has resulted in an excellent working relationship between the Legislature and the commission and working together to build a successful, closely regulated industry. The third new area of the bill allows the commission to delegate the adjudication subcommittee of the Racing and Gaming Commission and give them the powers and duties of full commission to investigate and to respond to violations of the Racetrack Gaming Act as appropriate and recommended by the executive director of the commission. This section also allows the executive director to appoint staff for that subcommittee and no member of the commission can be appointed to serve on an adjudication committee-- subcommittee of that-- if that person is involved in the investigation of any violation of the act. The concept of this subcommittee is not a new one. The commission currently has similar authority in Section 2-1203 to appoint a board of stewards to carry out the, the purposes

of horse racing statutes. The Commission is here to testify and can give you more information about how a board of stewards has worked for them in the past and the reasons for the necessity of the subcommittee for the gaming side of the equation. Thank you. And I'd be happy to answer any questions.

**HUGHES:** All right. Thank you. Senator Brewer. It was just me for a while. Do you have any questions?

**BREWER:** I know. John really has an effect on people. No, I think I'm good for now.

**HUGHES:** I'll just ask one. The commission came to you to ask to do this I'm assuming.

**LOWE:** Yes.

**HUGHES:** OK. Thank you. All right. We need proponents for LB775, please. I always want to say come on down. But I'm gonna say it once.

**SHANE GRECKEL:** Thank you, Senator Hughes. Senator Brewer. My name is Shane Greckel, S-h-a-n-e G-r-e-c-k-e-l. Again, I'm the vice chairman of the Nebraska Racing and Gaming Commission, here today speaking in a proponent capacity for LB775 as it regards to Nebraska Revised Statute 9-1202. Currently that says a "licensed racetrack enclosure means a premises at which licensed live horseracing is conducted in accordance with the Constitution of Nebraska and applicable" by "Nebraska law." In the Commission's standpoint, that is a little ambiguous language and we have an ever-growing industry going on ever since the passage of the constitutional amendments allowing casinos at licensed racetracks. So it becomes ever more encouraging for us to have a very specific and defined definition of exactly what a licensed racetrack is. A clear definition will provide a stable environment for the industry as well as its operators, so they know exactly what ground that they are on and what rules and capacities that they are operating within. This clear definition also helps the Nebraska Racing and Gaming Commission with its regulatory and enforcement duties. Again, with a rapidly changing environment, these duties and these responsibilities we rely specifically on state statute to guide us from what the Legislature has passed. Going further down the bill, we see an adjudication committee is also attached to this. As Senator Lowe has pointed out in his opening, a board of stewards already exists within the racing division of racing and gaming to where infractions come to a board of stewards and if the necessary level

arises to the entire commission itself. This helps "expediate" many things with infractions to get businesses rolling again. As many know, we need to have Nebraska open for business. We don't need to slow them down in any way. We need to work with them in the best capacity that we can. I also believe that executive director Sage and director of compliance, Casey Ricketts, are here too, if they need to answer any questions, and I believe we'll be hearing from them testifying or one of them. And I will be happy to try to answer any questions you may have.

**HUGHES:** All right. Thank you. Do we have any questions for Mr. Greckel?

**LOWE:** He's very thorough.

**SHANE GRECKEL:** Thank you.

**HUGHES:** All right. Well, thank you.

**SHANE GRECKEL:** Thank you.

**HUGHES:** Thank you for your testimony. Next proponent.

**LYNNE McNALLY:** Good afternoon, Vice Chair Hughes.

**HUGHES:** Hello.

**LYNNE McNALLY:** Lynne McNally, L-y-n-n-e M-c-N-a-l-l-y, and I am representing both the Nebraska Horsemen and WarHorse Gaming in-- on this hearing. The reason LB775 is very important to us is because we live and die by the definition of racetrack enclosure, and we really have not had one. Over the years, it's caused significant problems because, for example, in Omaha, we're landlocked. We at one time had talked about purchasing the driving range to the north of our property. However, there's a major road that runs through between the-- the driving range and our current property. And so I went to the Racing Commission at that time and said, you know, is it within the racetrack enclosure if we purchase it if there's a major road going through? Well, we don't know. It's never been litigated, There's no language. There's no way for us to be able to reliably tell you. It has come up. At the last commission or the commission meeting before this actually, the Horsemen were lucky enough to be able to purchase 155 acres immediately to the west of our current facility in Lincoln. So we now have a 370-acre complex where our racetrack sits. The reason we needed that property was in order to-- to build 900 stalls. So we

need 900 stalls. We need a test barn, we need all of the associated facilities to go with it. I went in front of the Racing and Gaming Commission and asked for them to declare it the racetrack enclosure. There's a very important reason for that. If you don't declare it the racetrack enclosure, then that means that the Racing and Gaming Commission investigators don't have automatic authority to be able to inspect, search, that kind of thing because it's not considered the racetrack property. So they would have to get a search warrant. They would have to get that kind of thing. You don't want to do that. You want to give them the full authority to do what they need to do. This kind of goes into the board of stewards. For example, there's a medicine called Bute. It's very similar to Tylenol and they give it to horses. You can have a very minor amount on race day and it's so minute that it's kind of easy to go over a little bit. And so those kinds of things go in front of the board of stewards, \$100 fine, \$200 fine. If you had to send all of those to the full Racing Commission every time, they would go from, you know, a four- or five-hour hearing into a two- or three-day hearing, because that's how many of those kinds of things come up. So it makes sense to me that as things occur within the gaming environment, that you want to have that intermediary panel that can review those minor issues. And it would work exactly the same as the board of stewards. If you don't like the decision of the board of stewards, you can always appeal to the full commission. If you don't like what the full commission decides, you can go to district court. I think it would be great to have that interim step.

**HUGHES:** Thank you, Ms. McNally. Do we have any questions? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chair Hughes. Thank you, Ms. McNally, for being here. So this change on page 3 [INAUDIBLE] all real property that would allow Horsemen potentially to buy notes.

**LYNNE McNALLY:** Yeah, Yeah.

**J. CAVANAUGH:** Thanks.

**LYNNE McNALLY:** And then so like in my example with Bute, when there's a violation that's a little more serious, like, let's say Clenbuterol, that's, that's a drug that is prohibited on race day. If you test positive in the test barn, the investigators then have an obligation and duty to go to your tack room and see if the-- if that drug is there, if there's any other violations. If-- if you're not declared within the racetrack enclosure, they would literally have to go get a

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search warrant to do that. I-- I think that's too much of a burden on them.

**J. CAVANAUGH:** Thank you.

**HUGHES:** Other questions? I have just a little bit of one with the adjudication committee or subcommittee. Is that typical like in other states they have sort of that interim?

**LYNNE McNALLY:** Yes. Yes, they have a panel of some kind that provides for a form of redress.

**HUGHES:** Sure.

**LYNNE McNALLY:** And I-- and I do like the section in there that, for example, if you were, you know, investigating at WarHorse and, you know, and it went to that panel that somebody from Columbus or Grand Island would have to sit on the panel. I like that.

**HUGHES:** All right. Very good. Thank you for your testimony.

**LYNNE McNALLY:** Thank you.

**HUGHES:** Other proponents.

**TOM SAGE:** Vice Chair, members of the committee, my name is Tom Sage, S-a-g-e, 5903 Walker Avenue, Lincoln, Nebraska. I'm the executive director of the Nebraska Racing and Gaming Commission. I have to say that the two previous testifiers made it pretty easy on me. They pretty much answered everything I was going to say to you. I'm here to answer any questions. You asked if this is modeled other-- other states. This is very, very similar to Iowa. They have it in rules. I felt we needed it in statute before we went into the rules. It really, I believe, is going to enhance our regulatory effort. As Ms. McNally said, we don't want to have two or three days of constant hearings in front of our commissioners that are paid \$1,000 like you all are a month. Anyway, here to answer any questions, I-- I brought this to Ms. Holman a while ago. We worked on it. We worked on some stuff from Iowa, and there's where we're at.

**HUGHES:** All right, Thank you. Questions for Mr. Sage?

**TOM SAGE:** I'm getting off easy.

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**HUGHES:** Easy, agree. Proponents for LB775. All right. Any opponents? Nobody wants to speak in the negative, what? Neutral testimony, please. Nothing. All right, Senator Lowe.

**LOWE:** Oh, if all my bills could go that easy.

**HUGHES:** I know, right?

**RAYBOULD:** Yes.

**LOWE:** And with that, I close.

**HUGHES:** Well, that was super easy. And this is even easier. I don't-- there was no-- nothing submitted online or whatever. So boom, mike, drop. We're done with this one. All right, Senator Lowe, do we want to do the break now or do you want to go in? Because you mentioned at 4:00 so.

**LOWE:** Let's stretch it on.

**HUGHES:** OK.

**LOWE:** After this.

**HUGHES:** All right, here we go. We need to switch the tag. We are going-- for LB311 and that is also brought by Senator Lowe. Thank you. Go ahead.

**LOWE:** Thank you, Vice Chair Hughes and the fellow members of the General Affairs Committee. My name is John Lowe. That's J-o-h-n L-o-w-e and I represent District 37, which is made up of Kearny, Gibbon and Shelton. LB311 changes the deadline for when horseracing market analysis, the casino gaming market analysis and the socioeconomic-impact study are due. Current law calls for this to be completed by January 1, 2025. My bill is a simple change. It just changes that to January 1, 2029. Pushing these studies back to 2029 will also mean that the new horseracing facilities and casinos will not be allowed to open until that time. I'm bringing this bill to stifle casinos in Nebraska, but because the reality on the grounds has already allowed casinos in Nebraska, Nebraska will just barely become fully operational by 2025 if even then. Requirements for these studies were created so we could get a clear picture on how the casinos are working, how future casinos may interact with the new ones that currently exist, and to highlight any potential changes. These studies can only be helpful to this committee, the Gaming Commission and



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others if we ensure there is quality data being analyzed. Right now, no casino in Nebraska is operating under its full capacity for slot machines. No casino in Nebraska is allowing card games or dice games, no casino in Nebraska is taking bets on sporting events and no casino in Nebraska is operating at its permanent location. My understanding is the best estimate for the-- for at least some casinos to be fully operational is sometime in 2024 maybe. That would mean that studies of this committee and the Gaming Commission is depending on to make sound decisions, we would have less than one year's worth of data on a couple of casinos and tracks. That quite simply is not enough time to get a full and clear understanding. Moving the due date on these studies back a few years would allow us to get the best possible information so we can make the best possible decisions. If we are not properly informed, we cannot ensure that our decisions are the right ones. And with that, I'd be happy to take any questions.

**HUGHES:** All right. Thank you, Senator Lowe. Do we have questions for LB311?

**LOWE:** Quiet group.

**HUGHES:** I just feel like we can't let you get off that easy.

**LOWE:** Please.

**HUGHES:** I'll-- can I ask one? Just kidding. I can't ask you a question or I can. How long-- do you know how long a study would take when they-- like, from start? Like, if they say I'm going to do this market study, we're gonna put an RFP out now--

**LOWE:** Well, it would be the Racing and Gaming Commission who would do the study.

**HUGHES:** So hopefully they'll talk and I can ask them that. You don't know how long something like that would take, though?

**LOWE:** No.

**HUGHES:** OK, fair enough. Thank you.

**J. CAVANAUGH:** I'll ask a question.

**HUGHES:** Oh, sorry. Senator Cavanaugh.

**LOWE:** See what you started?

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**J. CAVANAUGH:** Thank you, Vice Chair.

**HUGHES:** I'm so sorry.

**J. CAVANAUGH:** Thank you, Chair Lowe, for bringing this bill. So how did you settle on 29-- 2029?

**LOWE:** Well, it was just going by the fact that, you know, construction is at an all-time high cost right now and getting materials was slowing everything down. And I thought four years, we could get it up and running, at least have maybe two or three years we could go by-- figures after the casinos and horse tracks are all fully operational. Because I don't see any-- there may be one or two that are fully operational by the end of 2024, which is this next year coming. I don't see all six being up and operational and that's what we're really talking about is-- right now is six horse tracks and casinos.

**J. CAVANAUGH:** Thank you.

**HUGHES:** All right. Any other questions for Senator Lowe? I'll have one more. You brought this yourself? You decided to bring this by yourself?

**LOWE:** Yes.

**HUGHES:** OK. Thank you. All right, we need proponents for LB311, please.

**LYNNE McNALLY:** Hello again. Lynne McNally, L-y-n-n-e M-c-N-a-l-l-y, representing the Nebraska Horsemen and WarHorse. We are in support of LB311 mainly because-- he's giving you handouts now, but just as a reminder of what the things are that have to be examined in the market study. And if you'll look, everything that's highlighted in yellow, without actionable-- without these casinos existing, you cannot fulfill those, those pieces of information because there isn't any to be had. It would be pure speculation. Because of the adverse financial climate and as, as the senator said, cost of materials, those kinds of things, our construction has been delayed. We thought we would be open, but it looks like we're not going to be open at either full facility, Lincoln or Omaha, until probably the very beginning of 2025. So there would be no full-blown facility even open by the time this study is due. And if you're putting out an RFP, you have to gather the data, you have to organize and put the data together. If the report is due January 1, you're going to have to have this done in '24, actually. So we just need additional time. The original six licenses

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would, would like an opportunity to get open so that you can do a market study that has value. These market studies are extremely expensive. It would be a shame to do one with no actionable data. And the people I'm sure who are going to oppose this are the Johnny-come-latelies who suddenly have some huge love of racing, you know? They had no interest in racing prior-- on November 2, 2020, they had no interest whatsoever. The Nebraska HBPA has built two racetracks in the last 20 years. We love racing. It's why we exist. And these other places just want an excuse to open a casino. And frankly, a couple of them just want to siphon off our revenue so that our purses never grow and never get any bigger. They want to damage horseracing. And so you'd need the, the information backing you up on this market study to really make an intelligent decision about how to move forward in the marketplace and whether additional licenses are even necessary. You have no way to determine that without sufficient information.

**HUGHES:** OK.

**LYNNE McNALLY:** Thank you.

**HUGHES:** Thank you, Ms. McNally. Questions for Ms. McNally? We'll start with Senator Brewer.

**BREWER:** Thank you, Vice Chair. All right, since you brought it up, what is the cost for a statewide horseracing market analysis study?

**LYNNE McNALLY:** I, I know what our market analysis cost. It was six figures. So I don't know what kind of RFP the commission plans to put out or, or what the-- you know, what the final bids are going to be, but that's how much our-- ours was when we got it.

**BREWER:** OK. Would that be \$101,000 or \$999,000?

**LYNNE McNALLY:** Mr. Morgan would know. He's testifying after me and he's the one that paid the bill.

**BREWER:** Oh, well, he's the guy I like to talk to anyway.

**HUGHES:** Thank you, Senator Brewer. Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chair, and thank you for being here. I think-- what is this, your third or fourth time testifying?

**LYNNE McNALLY:** Yeah, sorry.

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**J. CAVANAUGH:** Oh, that's OK.

**LYNNE McNALLY:** I apologize.

**J. CAVANAUGH:** It's always good information. All of the things that are highlighted here, are they not knowable before January 1, 2025?

**LYNNE McNALLY:** They are not. For example, let's take the first one. The number of Nebraska-bred horses available in the market for running races, including foals dropped in the state for the last three years at the time of market analysis. Now, you might say to yourself, well, that's a knowable number. The problem is if the full-blown casinos are not open, that directly ties to many foals are going to get dropped in the state because of the amount of purses. And they have no idea what the purse amounts are going to be with the casino revenue. Now, as a partner in the casinos, we plan on putting a significant amount of revenue that we receive from the casinos into the purses. We won't know how much we can put into purses until the facilities open and know how much money we have to work with. We don't know that today.

**J. CAVANAUGH:** And so you're saying we can't fully study-- well, I guess we'll work backwards. We can't open any new casinos until we complete the study, right?

**LYNNE McNALLY:** Right.

**J. CAVANAUGH:** And we can't complete the study until you guys are up in operation.

**LYNNE McNALLY:** Right.

**J. CAVANAUGH:** You guys have an incentive to-- you don't want other casinos to open necessarily because you don't want competition. So isn't there an incentive for you guys to slow-walk build-- opening up your own casinos and then argue that the study is not going to be able to be done until your casinos are open.

**LYNNE McNALLY:** Oh, trust me, we are not slow-walking these casinos. As a matter of fact, we have daily conversations, you know, cursing whoever is responsible for these dramatic materials costs. You know, we, we just had-- as an aside, we just had an emergency HBPA meeting yesterday at Fonner Park because we had planned on having Temp-- Omaha open later this summer. Because of materials problems and the interest rate problem, we are now backed up into early next year for that. So we had to make dramatic budget changes to accommodate for that. There

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were a lot of unhappy people in that room. So trust me, we want to get open as quickly as possible. There is no disincentive to open.

**J. CAVANAUGH:** And is it your position that 2029 was the right year or is there a different year that--

**LYNNE McNALLY:** I think that's reasonable. I think, I think Chairman Lowe is right that that's four years so, so it gives you probably two or three years of actionable data. And I think that's probably reasonable. The-- we've noticed with the temporary facility that numbers can fluctuate dramatically depending on what time of year it is. So you really do need a couple of years' data so you can see the trends going up and down.

**J. CAVANAUGH:** And so we adopted this bill last year, if I remember right. LB561, is that right?

**LYNNE McNALLY:** Was it last year or two years?

**J. CAVANAUGH:** This study? I think it was last year.

**LYNNE McNALLY:** I don't remember. Yeah.

**LAURIE HOLMAN:** It was LB876.

**J. CAVANAUGH:** LB876.

**LYNNE McNALLY:** OK.

**J. CAVANAUGH:** I knew that right off the top of my head. And I mean, I remember the conversation about what-- the years--

**LYNNE McNALLY:** Yeah.

**J. CAVANAUGH:** --and I don't recall-- 2029 was never part of the conversation. I remember the original conversation was--

**LYNNE McNALLY:** Well, because we had thought we were going to get open quickly and that didn't happen.

**J. CAVANAUGH:** OK.

**LYNNE McNALLY:** You know, our interest rates-- and, you know, I hope I'm not telling tales out of school, but I mean, our interest rates went from single digits to double digits very quickly. It was alarming. And, you know, Lance ended up telling some of the finance

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people, listen, I, I'm not accepting your deal. It's going to get me fired. So, you know, it was back to the drawing board and, you know, he's close to choosing someone now. But, you know, we had, we had anticipated starting construction last fall. So we had to, we had to kind of wait out that peak of interest rates.

**J. CAVANAUGH:** I was at the groundbreaking, I think.

**LYNNE McNALLY:** Yeah. Yeah, you were.

**J. CAVANAUGH:** Thank you.

**LYNNE McNALLY:** Yeah.

**HUGHES:** All right. Thank you, Senator Cavanaugh. Other questions? All right, well, thank you, Ms. McNally.

**LYNNE McNALLY:** Thank you.

**HUGHES:** Appreciate it. Next proponent.

**LANCE MORGAN:** Lance Morgan. Do I spell my name?

**HUGHES:** Yes, please.

**LANCE MORGAN:** L-a-n-c-e M-o-r-g-a-n and PO Box 369, Winnebago, Nebraska. I'm here to testify in favor of extending it. And I think-- listening to some of the questions I think might help a little-- help me a little bit on this. I think Senator Lowe did a good job of summarizing it in general. And, and when we did it as 2025, you know, we were kind of hoping, to be honest, it would be 2027 or something like that. And, and as Lynne has explained, things have been going slower. We're building Omaha and Lincoln and they're going to be around 2025 when they're fully open. They won't have been open a full year, I think, by that time. And we do these studies, which we've spent probably a few hundred thousand dollars on, to get to your question. And whenever we do them, it takes about two years to have fully seasoned casinos because-- especially in newer markets where people haven't played before. You're seeing that now in Lincoln where it had a nice peak and people-- people-- it dropped down. And then people were like, hey, what's-- let's go check it out. And so you're-- and you-- then there's-- and there's a seasonality to the whole thing. And so I think it's going to take about at least two years after the facility opens to know how it's going to do. The other problem you have here is the casinos are happening at different rates. You know,

we only control Omaha and Lincoln, but we're also going to do South Sioux and South Sioux is on the back burner because it's a much smaller market. And what we're going to do-- and I think-- I don't know what the timing is on Columbus and I think Hastings is a little bit delayed too. So you're talking about a timeline that's going to be difficult. And I think that-- so doing a study based on a hypothetical is probably not going to be effective. The other thing I think that's important on this is this study comes up a lot in-- when we're financing these casinos because it basically acts as a short-term moratorium. And some of the casinos that are looking to be built, one is between Omaha and Lincoln and one is between Lincoln and Grand Island. And that creates real conflict, you know, with the finance-- because if those are going to be there, then you have to scale back what you're going to do. And Nebraska, especially in Omaha, is going to need a killer facility in order to fight, you know, three one-- three casinos in Council Bluffs. And so we have real-- I think we have, we have real issues there to create some strong competitors. And if we're investing close to \$600 million in these, to then have somebody come in and sort of eat our lunch the next day is a difficult thing to stomach and finance.

**HUGHES:** All right. Thank you for your testimony. Do we have questions for Mr. Morgan? Senator Brewer.

**BREWER:** All right, Lance. And just for the record, last time I saw you, you didn't have any gray hair. Changed that I think.

**LANCE MORGAN:** Since 2020.

**BREWER:** Probably earned it. All right, so we're looking at probably if we do it right, the statewide horseracing market analysis study is going to cost a couple of hundred grand to, to do it right. Now, that study would give us the ability to assess all of the proposed locations that we're looking at, having horse racing and encompass that. And the key part of that is you can't study it if it doesn't exist. I mean, we could, we could, we could swag numbers, but a lot of the information, like the stuff that, that we're looking at here with, you know, the number of horses, number of foals, all this kind of stuff, there's got to be some reality to it or it's just pie in the sky. So I kind of understand where you're coming from here. And we're looking at a lot of money to invest. But your timeline right now, and this is best guess, the 2025 fully operational, you can tart-- crunching numbers and you'd have real numbers to crunch?

**LANCE MORGAN:** Yeah. Well, we should be open probably in '24, mid to late '24, you know, if a few things go right, you know? You'd be surprised if you promise to pay half a million dollars to get some electrical equipment here to jump the line, what you can do. And so we're aiming, but we will not have been open even more than six months, probably, in both facilities before they're supposed to somehow do a study on them. And South Sioux won't be open and Columbus and Grand Island may not and Hastings either. So it really is, is an exercise in guessing. And if you, if you want a, a-- Iowa's been doing this to us for 25 years and they do these studies all the time. And what they do is they're very careful with their studies to protect their existing, their existing operators who invested the huge amounts of capital to do this so that somebody can't just come along and, and hurt their operations. This is a government controlled sort of regulated environment. And so making sure that you don't turn it into something that is one and every corner is, is certainly in the interest of the state, I think, for lots of reason. And, and the other thing that we have-- we had promised that there would be no proliferation in this. You know, there were six tracks at the time, and I think that's what Nebraskans voted for, too. They thought it would be a limited activity. And so I think there's another element behind the study. It was to slow that down and that momentum because the next meeting, I think 12 people wanted to build a horse track. And that's not what 69 percent of Nebraskans signed up for.

**BREWER:** Do you think there's any value added to looking at some of the studies that Iowa has done or is there enough of a difference between what we're doing and there doing that it wouldn't carry over?

**LANCE MORGAN:** I think there's a lot of parallels in a lot of things that Iowa has done. We spent a lot of time researching some of their activity and they've done it in a way-- two things; to protect their existing capital investment, and they located their facilities on the borders in order to exploit outside markets. That's why there's one near Sioux Falls, that's why there's three in Omaha, that's why there's three in the Quad Cities. You know, I mean, they're pretty calculated and strategic in how they do this kind of thing. And I think we probably need to take some of the same approach. And if we're making a half a billion-dollar capital investment, I mean, certainly some level of protection for that is, is important to us.

**BREWER:** OK. Thank you.

**HUGHES:** Other questions? Oh, Senator Cavanaugh.



**J. CAVANAUGH:** Thank you, Vice Chair and thank you, Mr. Morgan, for being here. In terms of-- like, you were talking about Sioux Falls-- or Sioux City will be far behind in terms of the ones that you're talking about. But you talked about the potentiality of interest in between Omaha and Lincoln, between Lincoln and Grand Island, those places. Is there a possibility of saying-- regionalizing the market studies, I guess?

**LANCE MORGAN:** I think that-- I think there's some effort to do something in the western part of the state. And I guess that we don't have any real objections to that except it's-- because there's not, there's not going to be a casino out there so there really is nothing that's going to be-- that's going to study. You know, all-- the six casinos are on the eastern half of the state, the central and the eastern part. And I-- so I think that there's some-- I think there's been some initiative for people to do it out west. And so I think that's a slightly different enviro-- a slightly different question. But to me, it's opening a can of worms that makes me a little bit nervous. And if you can thread that needle, I guess, I'd, I'd support that.

**J. CAVANAUGH:** That also makes me nervous, so.

**HUGHES:** All right, thank you, Senator Cavanaugh. Other questions? All right. Thank you for your testimony.

**LANCE MORGAN:** Thank you for your time.

**HUGHES:** Next op-- proponent, next proponent.

**TOM JACKSON:** Good afternoon, Vice Chair Hughes, and members of the General Affairs Committee. My name is Tom Jackson, T-o-m J-a-c-k-s-o-n. I am here to testify in support of LB311 on behalf of Columbus Exposition and Racing. Since the passage of the ballot initiatives as well as last session's LB876 and LB877, CER, Columbus Exposition and Racing, has close, closely watched the Nebraska Racing Commission grow in its new role and take on new responsibilities. These responsibilities include hiring staff, review incurring operating plans, having onsite inspections and visits, building a vast infrastructure. These new responsibilities and oversight ensure the proper enforcement of this new industry in Nebraska. CER and other operators are operating under timber-- temporary permits. The horseracing industry is still building facilities needed to run more significant race meets with larger purses. Larger purses can be

provided only by successful gaming operations. The voters of Nebraska approved gaming at authorized racetracks knowing how many racing operations currently exist in Nebraska. Upon last year's passage of LB876, the Legislature enacted a requirement to conduct a market study by January of 2025. That was basically for five years. The study is supposed to evaluate the numerous social and economic factors before allowing any new racetracks and casinos to be built. The market study is crucial because it will value 16 complex issues that will give the legislator-- Legislature and the citizens of Nebraska a roadmap for the industry's future. The market study is a logical, thoughtful, path-- path to implement and revitalize the once nationally recognized Nebraska horseracing industry and create a well-run and well-regulated games-- gaming industry at horseracing facilities. A short extension for a proper study would be the responsible way to move forward for all parties involved. A study is, is critical to be moved out so we get really strong information. Several of you on the committee heard my expression last year, don't put the casino before the-- or the cart before the horse. Well, it's don't put the casino before the horse. I believe this is an example of just that. Trying to expedite more tracks at casinos without the benefit of a well-balanced and accurate study could harm the industry we are working to revive. Therefore, we fully support LB311. Thank you for your time and I'll take any questions.

**HUGHES:** All right. Thank you, Mr. Jackson. Do we have questions for Mr. Jackson?

**TOM JACKSON:** Yes, ma'am.

**RAYBOULD:** Thank you, Mr. Jackson, for coming here. I have a question. Could you give us a quick update on the status of the construction in Columbus?

**TOM JACKSON:** Currently, we are putting together the temporary site at the Ag Park facility. We're hoping to move that forward and open late spring. Then the new site, we are working with the commission with plans to get approved so that we can hopefully move and open out at the old Wishbones facility late spring of 2024. That's our ambitious goals.

**RAYBOULD:** OK, great. Thank you.

**TOM JACKSON:** You bet.

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**HUGHES:** All right, other questions for Mr. Jackson? All right--

**TOM JACKSON:** Thank you for your time.

**HUGHES:** --thank you for your testimony. And I'm going to announce before any more proponents, we're going to take a ten-minute break after this bill. OK. Next up, proponent for LB311. OK, seeing none, opponents for LB311. And if you're going to speak, if you wouldn't mind coming down. It's kind of like church. We got that front row open. Head on down to fill it up. Thank you for coming.

**JOHN HASSETT:** Yeah. Well, good afternoon, Vice Chairman Hughes and members of the General Affairs Committee. My name is John Hassett. It's J-o-h-n H-a-s-s-e-t-t. I'm the president of Aksarben Equine and I appreciate the opportunity to be here. Aksarben Equine submitted a proposal in June of 2021 for a racetrack and casino operation in Bellevue. And I appear today in opposition to LB311. Last year, when LB876 came up, we, we agreed to the compromise that this bill hammered out and advanced that passage. And we believe that it was fair to give the commission the tools it needed to have a better idea of the impact that the additional tracks and the casinos would have. And I also agree with-- that it gave the existing tracks protection to get started. Even if it-- the market study isn't pushed back farther than 2025-- excuse me-- that doesn't mean that there will be license issued. And even if it was, it would take a couple more years to get open. I mean, they already have protection through at least 2027. The other thing about the required market study that was passed in LB876, it clearly states under Section 24 that the study of the racing market as it currently exists as the date of the market analysis. So I don't see the need to wait for future data to project the market as it currently exists. The bill says the market analysis shall be completed as soon as practical. And we, we look-- we looked at some other states and it takes about six to eight weeks to have a study completed. We did one before we submitted our proposal in, in Bellevue and I've emailed a couple of the other states' studies on the cost to the racing commission. The one in New Mexico cost about \$74,000. It was done in 2018. And the one-- and Iowa does one every five years, as required by their statute, and they were still going to send me the cost. But besides our study, I've seen two other statewide studies and the additional proposed racetracks are projected to generate over \$100 million a year, an additional handle in all three of the studies. And at a 20 percent tax rate, this means over \$20 million per year in gaming tax to cities, counties and state. So if you push the study back five years, you're saying no to over \$100 million in additional

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tax revenues just from the gaming tax. The additional economic impact to the state will be two to three times the tax impact. I thought last year's compromise before LB876 was a good compromise because nobody was entirely happy when it passed. I know the existing tracks want to eliminate any new tracks and that didn't happen and the new applicants wanted to get started and, and that didn't happen either. So I think the compromise is a good compromise. Nothing's happened this year that shouldn't have been anticipated when the compromise was made. Oh, my red light.

**HUGHES:** Mr. Hassett, your-- yep--

**JOHN HASSETT:** My wife tells me--

**HUGHES:** --you're red-lighted.

**JOHN HASSETT:** Sometimes I hear I talk too much, but--

**HUGHES:** Do we have any questions for Mr. Hassett?

**JOHN HASSETT:** Yes.

**HUGHES:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chair Hughes. Thank you, Mr. Hassett, for being here.

**JOHN HASSETT:** Sure.

**J. CAVANAUGH:** So you said that you're interested in opening one that was not one of the original six we were talking about. Is it your belief that after the study is done, that you're guaranteed to get a license for a facility?

**JOHN HASSETT:** No. There's no requirement for the Racing and Gaming Commission to issue any licenses. There's just a requirement that before they do, they have to have the study done.

**J. CAVANAUGH:** So it's possible the results of the study could say the market can't sustain another casino and racetrack in this area or something along those lines and you still wouldn't be able to build one.

**JOHN HASSETT:** No, that's, that's correct. And I don't know that waiting five years is going to help you too much. As far as studying

the gaming market-- in Bellevue, we've had, we have casinos 12 minutes away and we've had them for 25 years. I mean, you can study that market now. There's a proposal from North Platte and Scottsbluff. I don't know what would change five years from now if there was no additional casinos. I mean, there's going to be a-- there won't be a track within 100 miles, I don't believe. So, I-- you know, I just don't see where you're going to gain everything by waiting.

**J. CAVANAUGH:** Thank you.

**JOHN HASSETT:** Sure.

**HUGHES:** Other questions for Mr. Hassett. All right, thank you for coming in.

**JOHN HASSETT:** OK, thank you.

**HUGHES:** Appreciate it. Next opponent.

**RUSTY HIKE:** Good afternoon, Vice Chair Hughes and members of the General Affairs Committee. My name is Rusty Hike, R-u-s-t-y H-i-k-e. I am the mayor of the city of Bellevue. I appreciate the opportunity to be here today and testify in opposition of LB311 on behalf of both the city of Bellevue and the United Cities of Sarpy County, a coalition of mayors of Bellevue, La Vista, Papillion, Springfield and Gretna. As we read LB311, it is targeted at delaying any development of an additional racetrack anywhere in the eastern part of Nebraska, including the Bellevue Downs track proposed in Bellevue. Bellevue Downs is looking at a \$150 million investment in the racetrack and a potential future casino as part of an overall development of over 300 acres and \$500 million in southeast Sarpy County. During an 18-month construction period, there will be over 350 construction jobs and more than \$50 million in locally sourced materials. Bellevue Downs would race quarter horses, would be five-eighth mile state-of-the-art dirt racing surface, a backside with advanced testing and receiving facilities, expandable grandstand with parimutuel wagering area that would accommodate 5,000 fans. The development area, as noted before, would be 300 acres and over \$500 million in development. While the racetrack and potential future casino are a part of it, we are also talking to developers about a wide-range application for additional amenities, including hotels, an indoor water park with a natatorium seating 3,000 spectators, a facility similar to Topgolf. To give the committee some geographic perspective of the location of these 300 acres, it's not far from the NC3 project that is now being situated.

However, it is important to note that this development really hinges on the issuance of an economic impact study by the Racing Commission and Gaming Commission to proceed. Were the committee to advance and the Legislature pass a bill that would delay that part of this economic development plan, we would not know whether the project could move forward. To be clear with the committee, it was the city of Bellevue that approached Mr. Hassett and his group to begin these conversations about a potential new track and casino. Mr. Hassett has been a stalwart of our community and has run our keno game for over 20 years. Bellevue trusts John. That is why we spoke to him first. I also want to note that we are joined in opposition today by the United Cities of Sarpy County. The membership of this group includes myself and the other four mayors of the cities in Sarpy County. To a member, they view this project as an incredible opportunity for Bellevue and their cities as well. Together, we have over 190,000 folks who live, work, dine and look for entertainment in Sarpy County. Just as Bellevue supports economic development in Gretna, Springfield, Papillion or La Vista, they support us. Estimates of a potential casino located at Bellevue Downs is estimated to produce over \$100 million in gaming revenue and \$2 million in potential sports betting revenue. This would be done through an estimated 850 slot machines and 20 table games. Estimates are that this facility alone would generate 350 new jobs and an annual payroll of \$20 million. The economic output is estimated to be \$25 million per year for the local economy. Under the current taxing provisions, there would be an estimated \$20 million in taxes that would go in part to reduce property taxes to the tune of \$15 million statewide, with \$2.5 million per year going to both city of Bellevue and to Sarpy County to address the needs of our communities. In my opinion, voters across the state approved the ballot initiative to maximize property tax relief. Please don't delay Bellevue's contribution to that effort. I appreciate your time. I'll try to answer your questions for you.

**HUGHES:** Thank you, Mr. Hike. Questions for Mr. Hike? Senator Brewer.

**BREWER:** Thank you, Madam Chairman. All right, Mayor. You're probably going to understand better than anybody, like, these studies and, and what they cost. Have you guys done something along these lines to kind of see if you're ready for the track and what did that cost?

**RUSTY HIKE:** We have not done the study. The study was done by the independent contractors that Mr. Hassett had hired.

**BREWER:** Right.

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**RUSTY HIKE:** So we don't know if it's going to-- I mean, we're kind of waiting for the state to do the study, so.

**BREWER:** Yeah. All right.

**RUSTY HIKE:** I mean, if they say it's not going to work, you know, we can--

**BREWER:** Well, I, I didn't know if you guys had done one separately just to kind of make sure that people are being fair about how they assess your ability to, you know, to have a track and keep it going and having the right number of people come and all that. But right now, the way this would work is the state of Nebraska would hire this statewide horseracing analysis study for whatever the price is, \$100,000, \$200,000, whatever. And it's going to assess all the potential-- well, the six, I guess it would be-- potential locations for tracks, whether or not they can meet the timeline and the requirements, all those. Is that kind of how you see it?

**RUSTY HIKE:** Yeah, I just think-- you know, I-- if you're going to do a study each year, I think that study is going to change. So whether it's this year or seven years from now, I don't-- you know, I trust that those are professionals and they're going to come up with their numbers and the study is what it is. It'd be nice to see it so we can plan.

**BREWER:** Well, you're one of those guys that's blessed to know that the town you're going to be bigger in seven years than it is now.

**RUSTY HIKE:** It is going to be bigger. That area I'm talking about, we're, we're investing in a sewer system. It's a \$200 million project the whole Sarpy County is investing in, which opens up 70 percent of the county. And then Bellevue is bringing in water to that same area--

**BREWER:** Isn't-

**RUSTY HIKE:** --so.

**BREWER:** --Sarpy County the fastest-growing county in the state?

**RUSTY HIKE:** It is. And with this sewer infrastructure, I have no doubt it's going to be for the next 20 years.

**BREWER:** All right. Well, you got a big pair of shoes to wear then.

**RUSTY HIKE:** Yeah, that's-- a lot of work, but--

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

**RUSTY HIKE:** --love it.

**HUGHES:** Thank you, Senator Brewer. Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chair, and thank you, Mayor, for being here. And have you seen the study that you're talking about or can you comment on it at all? I guess, can I ask you a question about it?

**RUSTY HIKE:** No, I probably won't-- I wouldn't have the right answers on it, so.

**J. CAVANAUGH:** I should have asked Mr. Hassett, I guess.

**RUSTY HIKE:** Well, I can tell you all about the park study. The city to do that one, but we're counting on the state and the, and the--

**J. CAVANAUGH:** Well, the question I was going to ask you about, your-- you cited a study that says it's going to bring in \$100 million and that would be with 850 slot machines and 20 table games. Do you, do you know whether that study took into account the, I guess, diminution in dollars spent at the nearby casino that would be-- that is in Douglas County?

**RUSTY HIKE:** I would think so because there are other things that were-- they took into consideration. So I'm thinking they would have consider everything. They-- yeah, that's a, that's a question for--

**J. CAVANAUGH:** I should have asked the last one, yeah.

**RUSTY HIKE:** --for John.

**J. CAVANAUGH:** Thank you.

**RUSTY HIKE:** Yeah.

**HUGHES:** Other questions for Mr. Hike? Oh, go ahead.

**RAYBOULD:** Well, Mayor Hike, I have the same question. Because when you do a market analysis, it's typically that, that snapshot with the existing compet-- competitors. And so I kind of join with Senator Cavanaugh in his concerns; if it was a snapshot at the appropriate



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time and, and did they factor in the cost of competition coming in very soon?

**RUSTY HIKE:** Yeah, I can tell you, we just went through an extensive water park study for the water park I was talking about. And that's one that we did order from a third party and they took into consideration the new interchange that's in there, the utilities that are coming in so it was very detailed. So I can only imagine that this-- the casino study would be the same.

**RAYBOULD:** OK. Thank you.

**RUSTY HIKE:** It'd be nice to have that.

**RAYBOULD:** OK.

**HUGHES:** All right. Any other questions? Seeing none, thank you.

**RUSTY HIKE:** Thank you.

**HUGHES:** Next opponent.

**ANGI BURMEISTER:** Good afternoon, Vice Chair Hughes, members of the General Affairs Committee. My name is Angi Burmeister. It's A-n-g-i B-u-r-m-e-i-s-t-e-r. I'm the chair of the Sarpy County Board and a Sarpy County commissioner for District 3, the Bellevue district. I'm testifying on behalf of the county board today in opposition of LB311. Sarpy County is directly affected by the bill in that at least one developer has mentioned an interest in building a racetrack casino in Sarpy County. The county is a strong partner with the Sarpy cities in protecting the benefits for all Sarpy residents. While the board has taken no position on gambling or racing ventures in and of themselves, the county board does oppose this bill because it encroaches-- encroaches on initiatives that have been approved by voters, it limits economic development and it favors operations by some entities over others at the peril of our county. And we just appreciate the opportunity to be here and voice concerns on behalf of our citizens.

**HUGHES:** OK. Thank you. Questions for Ms. Burmeister? All right, seeing none, thank you. Thanks for coming. Other opponents to LB311? Nope, all right. Anybody coming in neutral?

**SHANE GRECKEL:** Good afternoon again, committee members. My name, for the record, is Shane Greckel, S-h-a-n-e G-r-e-c-k-e-l, and again, I am the vice chair of the Nebraska Racing and Gaming Commission. In

regards to LB311, the Racing and Gaming Commission is taking a neutral stance in this understanding that data is key. Much like the Legislature in this capacity, you guys are listening to the general public, the commission listens to the industry and the public as well to try to make the best decisions necessary under the guidance of Nebraska law. We can't do that without the best data at hand. Let's say that. Temporary is always incomplete data. Temporary, by its very nature, is short lived and we don't want to-- we don't really want to proceed with incomplete data or temporary data. Right now, I don't believe there's any full Class III gaming within our state. It's just slot machines. We do not have any card games or anything like that in-person games so we don't have any data to compare that to with new facilities. But I really say-- I really must say, from the, the previous individuals coming up here in the proponent and opponent stance, I applaud the interest in horseracing. It seems like there is a renewed interest in it and I really applaud that in our stance. Macros, when we look at studies like that, we keep hearing that things may be changing. I agree. Every year, every week it seems like in this scenario things may be changing. However, it seems like macros in an industry do stay fairly consistent so that would be very advantageous to the commission going forward to have, you know, very linear things, all the data sets staying similar. I don't want to talk too much on this one. We are staying in a neutral stance. We'll do whatever the Legislature deems necessary for it, but I will try to answer questions best I can.

**HUGHES:** All right. Thank you, Mr. Greckel. Questions? Senator Brewer.

**BREWER:** Thank you, Madam Chairman. All right, Shane. Let's go and take a look at the way it is now in the proposal, that is a pretty quick expansion over quite a while on data. Has there been any discussion of trimming that to where kind of in the middle might be the right place to, to shift it to get data and still be able to have decent numbers for making a decision?

**SHANE GRECKEL:** Yeah. Thank you for the question, Senator Brewer. I kind of cut myself off a little fast there. You know, it-- just because it says 2029 in the bill, it doesn't mean it's going to have to be 2029. You know, studies can be done far sooner than that. That's just the expiration point. If everything goes well, it could be sooner. There has been talk with myself and other individuals on the commission of using a matrix study. I'll reference it because I spoke of it at a couple of commission meetings. It looks kind of like the Department of Ag's feedlot one. We can tweak it if that is something

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we can use. But if you put into a template like that, you can quantify information at a much faster rate that is-- that could prove, that could prove advantageous for a sooner date.

**BREWER:** Who would shepherd this and kind of keep kicking folks in the butt and keep it moving down the road so they don't just drag it out as long as they want?

**SHANE GRECKEL:** That's an excellent question. There would probably have to be an RFP out, obviously, for the commission to, to find out who could do this. I would think it would be the job of the commission to keep looking in on it to make sure that the study is--

**BREWER:** Now you're thinking.

**SHANE GRECKEL:** --doing right.

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

**HUGHES:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you. Vice Chair. Thank you again for being here, Mr. Greckel. So do you feel like the commission is empowered to deny applications?

**SHANE GRECKEL:** Yes, the commission would be, in its efforts, much like the Liquor Control Commission would be able to deny based on criteria that would not be met or abuse of criteria that-- on their license.

**J. CAVANAUGH:** What about in light of the results of the study?

**SHANE GRECKEL:** I don't think the results of the study would necessarily guarantee a denial of a license.

**J. CAVANAUGH:** I'm not asking with guarantee. I'm asking about whether, in your judgment, you could look at the study and say the market can't support another casino, therefore, we won't give another license.

**SHANE GRECKEL:** I think that would be absolutely critical for the commission to do. The reas-- the whole reason for the study is to be able to not only protect Nebraskans, but to, to shed light on it. However, I must say in the same breath that if all parameters are met, it's not the duty of a commission or a government, in my opinion, to be able to stifle private business if all conditions or regulations are met. That's the job of the private industry or the market.

**J. CAVANAUGH:** I would agree with that in principle. We try-- we're trying to, you know, thread the needle, as Mr. Morgan said--

**SHANE GRECKEL:** Yeah.

**J. CAVANAUGH:** --in terms of setting up a regulatory structure that's not going to cause casinos to be everywhere, but still give people an opportunity. And I would just note that one of the, you know, results of the study is that, you know, the commission can deny based on the findings of the approval if such application in such placement and location would be detrimental to the racing and gaming market that exists across the state based on the most recent statewide study. So, I mean, I guess just to present it as a question, you agree that that allows the commission to read the study and say it'd be a bad idea to open another casino in this area?

**SHANE GRECKEL:** I think we have to rephrase that a little bit; horseracing first. You know, if it's going to be bad for the horseracing industry, that's what started this. That's what needs to be taken a look at. For the "firation" among Nebraskans' horsemens is always going to be paramount. And that's always first is the, the track. So we want to make sure that first and then obviously take a look at the ramifications of what opening a new venue could be.

**J. CAVANAUGH:** And so in that light, do you think there's a possibility that getting a study done with incomplete data would lead the commission to not grant new licenses if you feel like the data does not reflect the whole of what the state looks like?

**SHANE GRECKEL:** I can speak personally to that one that I would feel uncomfortable voting on a study that I know full and well does not have complete data.

**J. CAVANAUGH:** So from a perspective of somebody who wants to get this done as quickly as possible and get-- is there maybe some value in kicking it down the road to get a more complete picture, I guess?

**SHANE GRECKEL:** I think there is, absolutely. Any time you take a temporary amount of information and you try to make a decision based on that in haste, you could wind up with adverse effects completely unintended from its full goal and something like that with the new applications that have been addressed here today. You know, if we wait a full term, which again, I must say could be much sooner-- you know, it doesn't have to be 2029. It could be 2026. We don't know. If we

wait till full term, it could be, yes, the market looks like it's going to fulfill that, which I think the industry, in my opinion, would be well regarded to wait for. It's a free market study. It's free data and information that companies pay hundreds of thousands of dollars to that the state would be providing, in essence, in this manner.

**J. CAVANAUGH:** If you finish the study early-- this is my last question, sorry. If you were to finish the study early under whatever timeline we're talking about, you're required to do another study every five years. Do you think your reading of that would be five years from the statutory deadline or just five years after the last study was done?

**SHANE GRECKEL:** That's a good question. Based on-- it could be statutory, but I like to look at it in a real-world scenario. You know, if statutory is an ending point here and would be the following year basically, we would have to do another one. I don't see the value that that would serve to the citizens of Nebraska nor to the commission. However, if we space it out at a five-year interval, possibly from the last resource or the last market analysis study, that grants us a better picture and a timeline moving forward of each year by year, increase or decrease. So that study, I do think, would be better at the, at the ending rather than statutorily.

**J. CAVANAUGH:** Thank you.

**HUGHES:** All right. Thank you, Senator Cavanaugh. Other questions? She's gone. I have a couple questions. How long do you think a study like that would take? Starting from-- you put out the RFP, you-- I don't know. You wait a month and then you bring them in. And then when they start, how long does that take typically? Do you know?

**SHANE GRECKEL:** That, that is an excellent question. And, you know, you get what-- I, I think you get what you pay for. So if we're-- you know, if you take your car to a really cheap mechanic spot, it might be done a little fast, but not being done quite well. I use that as an analogy. I don't know is the better answer to your question, Senator.

**HUGHES:** OK, that's fine. Second question is how long-- so we've kind of been hearing that these places aren't going to have a permanent setting, meaning all the other things, tables, cards, all that, until the beginning of 2025 for a couple of them. How long do you think

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those need to be established before it's going to be good data and not temporary data?

**SHANE GRECKEL:** I think we can use the data quite rapidly. And again, this is my opinion. I would really like to delay some of this to our executive director, who is, who is much more apprised of the situations. But we have data from surrounding states that can show us a lot.

**HUGHES:** OK.

**SHANE GRECKEL:** If we can transpose some of that data that we find quickly within Nebraska as soon as the permanent facilities get up and running, I see no reason why we can't use nearby data--

**HUGHES:** OK.

**SHANE GRECKEL:** --to put into our matrix, so to speak.

**HUGHES:** And then I think this is my last question. We-- the study is outlined on what you're going to look at. Is there, like, a rubric that says-- because we're going to-- it's about horseracing. So, like, the number of Nebraska-bred horses that are available for including foals, blah, blah, blah, for three years. Is there a number where, OK, we have this money and we have six casinos and-- or six horseracing tracks, that's it? Like, we can't-- do you know what I'm saying? Do you have a rubric or a scale that says, OK, it's, it's too low, we can't add any more or there's plenty, we could add some more?

**SHANE GRECKEL:** Nothing that exists so far. But I do think going forward in the future, you know, benchmarks such as that would be critical.

**HUGHES:** Yeah.

**SHANE GRECKEL:** These are all things that have to be developed. Again, I want to make sure that everyone knows that, that this is a very, very new industry--

**HUGHES:** Oh, I know. Right.

**SHANE GRECKEL:** --and we created a whole new division of government to support it.

**HUGHES:** Right.

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**SHANE GRECKEL:** And playing catch up, I don't know if that serves the best interest of government as well as the public as well as getting out in front of it. So those benchmarks, I think, would be, would be very applicable. And again, what I spoke to before of possibly introducing it into a matrix would really help quantify those numbers.

**HUGHES:** OK. And then this is my last question. We've talked about quarter horseracing, the majority already going are thoroughbred. We don't have any quarter-- Hastings is going to be, but they're, they're not even beginning. Are those two different animals? Yes, they are. But are they two different-- are they so different they don't affect each other, if that makes sense?

**SHANE GRECKEL:** There are different specifications for the tracks and there are different specifications within racing.

**HUGHES:** Yeah.

**SHANE GRECKEL:** But a right lead is right lead too on a horse.

**HUGHES:** OK. All right. Thanks. Oh, Senator Brewer, go ahead.

**BREWER:** I just want to say, Shane, a lot of times, we get folks who just come in and read something to us. You dug down and gave us some perspective we needed. You've been pretty raw and honest with your answers. Thanks for coming to testify. This-- you've made it better for sharing all this so thank you.

**SHANE GRECKEL:** Thank you, Senator. Thank you.

**HUGHES:** All right.

**SHANE GRECKEL:** Thank you, committee members.

**HUGHES:** Other questions? Seeing none, thank you very much. Other neutral testimony for LB311? All right, Senator Lowe to close. Oh, and I will say there are two-- online, there were two proponents for LB311, zero opponent, zero neutral.

**LOWE:** Thank you, Vice Chair Hughes and the committee and, and all those who testified today. As a person who has opened many businesses, you throw the first year out because you could be so busy that the following years don't even compare. As we've seen with the new facility here in Lincoln, during the months-- first month it was open, it was way high and then it came back down and now it's starting to

come up again. So you really can't count that first month as what you're doing. And I think that's kind of what we're looking at here was 2025, even if everybody was open in 2025, you throw 2025 out. So that gives you '26, '27, maybe '28 to come up with an idea and then it's got to be out on-- in '29. So we're looking at three years, three years' worth of data. I mean, normally we look at how things have been over the past ten years. Just for a good Rubik's [SIC]. And we seem to forget that big open space in Omaha called AK-SAR-BEN. It sat for many years because horseracing went down. And isn't that what this is about? This bill, LB876, was brought by the Horsemen's Association to bring back horseracing to Nebraska. And it's very aggressive to put that in six horse tracks. In six horse tracks in Nebraska, we are going to make a thriving industry. Maybe; we'll see. And that's why we need this analysis and that's why we need to push it back because the first year, year and a half may be really well done, but the following two years or three years, it may not quite be there and they're struggling. Well, maybe they're not in the right place. Maybe, maybe it's something. But we need time. We need time. And Mr. Morgan, Lance Morgan put it very well that they're investing a half a billion dollars. Well, that's a huge investment for a business to come in and establish themselves and then to have somebody else put another location up 35 miles away or 10 miles away that may take all their business. This is a highly regulated industry that we are dealing with here, highly regulated on both ends, both the horsetrack and the casino. Nebraska has six horse tracks. California has six horse tracks. We're the same, but with 20 times the population. If we increase the horse tracks in Nebraska, are we going to run our horses to death? Because it takes a long time to move these horses from one facility to the next for the next opening date. You have to get them there and have to get them there established. So we're not quite ready for prime time, bringing these up and saying, hey, we need to expand horseracing and casinos. I appreciate the opponents that came in in favor of this. You notice they didn't mention horseracing one time? They only mentioned the casinos. They want that money. They're not concerned about the horseracing. And we're also talking about two entities. We have the horseracing over here and we have the casinos. So it's not like a simple study. We're studying two different entities. So, yes, the casinos may be up and doing well, but is it ready for the horse tracks. Are the horse tracks doing well? Are the horses doing well? Do we have enough horses in Nebraska? Are there enough people to venture out and put one or two more horse tracks in? And that's what the study will be about. We need to make sure that all are viable when they come in. And with that, I'll end my testimony.



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**HUGHES:** OK. Questions for Senator Lowe? Senator Brewer.

**BREWER:** Thank you, Madam Chairman. All right, John, for the sake of everybody, just as a refresher, the idea behind the study or this analysis is that we take and look at the viability of all six racetracks, the locations they're growing into, their ability to sustain operations. And right now, when-- or I guess, who would, who would have oversight on that? Would it be the Gaming Commission or who would make sure the study is being done and that is being done on, on a given timeline?

**LOWE:** I would say that would be up to the Gaming Commission with an oversight by the Legislature because we have oversight on them through this committee.

**BREWER:** And in order to get all the answers that are needed, because it's, it's a pretty extensive list, they're going to have to go to all these locations, talk to all the people involved. And, and I guess one of the concerns is-- it seems like the casino part is the easy part. I mean, not the construction of it, but as far as establishing it and being able to sustain it because that's buying machines and building the structure. Finding the facilities and the horses is probably going to be the harder part of that. But one has to have the other too exist, is that a fair statement?

**LOWE:** That's a fair statement.

**BREWER:** So this report is going to come back and tell us how many quarter horses are available and how many thoroughbreds are available and how many foals you could have in a given year because they have to have-- these have to be Nebraska horses.

**LOWE:** They have to run at least one Nebraska-bred horse race for every race day.

**BREWER:** And that's, that's what ends up in this report. That's what we're going to be able to see, is whether or not the standards we've set and all-- are they feasible and doable and-- OK. Thank you.

**LOWE:** Yes.

**HUGHES:** Other questions for Senator Lowe? Senator Cavanaugh.

**J. CAVANAUGH:** Have you been to AK-SAR-BEN recently?

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**LOWE:** I have been to AK-SAR-BEN and I haven't bet on a horse race there lately.

**J. CAVANAUGH:** Well, I had to phrase it as a question, but, you know, AK-SAR-BEN is in my district. It's doing wonderfully. I would love to have you-- I would love to invite you to come to AK-SAR-BEN and see how well it's going. They're building this horse track in a different location now because AK-SAR-BEN is doing so well.

**LOWE:** Oh.

**J. CAVANAUGH:** So I would love for you to come visit District 9 and have a thriving purpose to which we've put AK-SAR-BEN after they stopped horse races.

**LOWE:** May I answer that?

**J. CAVANAUGH:** Yes, please.

**LOWE:** I would love to.

**J. CAVANAUGH:** All right.

**HUGHES:** I want to go. I like field trips. All right, other questions for Senator Lowe? Just one little question. Do you-- in your opinion, is there a difference when you compare horse track racing, the thoroughbred versus quarter horse?

**LOWE:** Two totally different races.

**HUGHES:** Two totally different--

**LOWE:** Two totally different races.

**HUGHES:** --things. OK. All right, thank you. Anything else? All right, this concludes LB311. And I want to remind people, we are going to take a ten-minute break. So we will come back at-- should we just say five till 5:00? We will start at five till 5:00.

[BREAK]

**LOWE:** We got a ten-minute break. We've been at it since 8:30 this morning. So it was-- it was nice. With that, I'd like to call up Senator Briese for LB685.

**BRIESE:** Thank you and good afternoon. Chairman Lowe and members of the General Affairs Committee. I'm Tom Briese, T-o-m B-r-i-e-s-e. I represent District 41 and I'm here today to introduce LB685, which is a bill to regulate and tax cash devices. These cash devices are the ones that you see in bars and restaurants that resemble the slot machines you see at the casino, but technically are different. To begin, I want to clarify that the act in question is known as the Mechanical Amusement Device Act. There are several different types of games that are regulated by this act, but of course not all of them are cash devices. The act regulates games that are skill games or cash devices like BankShot. And it also regulates games like pool tables, pinball games, bowling, arcade-style video games, and has done so since 1969 when the act was originally passed. I have an amendment that I believe is on file to LB685 that clarifies that only those cash devices are affected by this bill. The bill is written to move the regulation and oversight of all mechanical amusement devices from the Department of Revenue to the Racing and Gaming Commission. It requires an annual application fee of \$1,000 each for operators and distributors of cash devices in the state and an additional \$1,000 fee annually for the license decal. Currently, there is no annual application fee, and the license decal, I believe, is \$250 per cash machine. The purpose of increasing these fees is to help fund enforcement. But if we can keep these fees at their current level and still properly fund enforcement, I'm more than willing to not increase these fees. This bill also places a 20 percent tax on the gross operating revenue on all cash devices. Gross operating revenue is defined in the bill as the, quote, the dollar amount collected by an owner or operator of any cash device less the total of cash awards paid out to players, unquote. Twenty percent is the same rate at which we tax casino games. And this bill would distribute the tax revenue generated by cash devices the same way as casino games, with 70 percent going to the Property Tax Credit Cash Fund, 2,5 percent going to the General Fund, 2.5 percent going to the Compulsive Gamblers Assistance Fund, and the remaining 25 percent going to the county in which the cash device is located. If it was-- if it is located within an incorporated city or village, it is split equally between the city or village and the county. As far as the 2.5 percent going to the problem gaming fund, I've been told by David Geier, the executive director of the Nebraska Commission on Problem Gambling, that the highest number of individuals they see that are seeking help overcoming compulsive gambling are players of these skill games or cash devices. He gave me some data and he may testify later in the neutral capacity, I'm not sure, but I believe he indicated that of new

diagnoses of gambling addiction in 2018, those new diagnoses accounted for 5.3 per-- the new diagnoses, the share of them attributable to the cash devices accounted for 5.3 percent of the new diagnoses. In 2022, those apparently addicted to the cash machines account for 29.9 percent of the new diagnoses. But again, we may hear from him later. The amendment also retains the current amount of occupation tax by each operator or owner of mechanical amusement devices to the state and strikes a provision that increased it. My goals with this bill are to provide for more property tax relief across the state and to more closely regulate the cash devices to hopefully remove as many of the illegal machines operating across the state as we can. We know there is a problem with their proliferation of illegal games in Nebraska, and there are experts behind me who I believe will testify on this issue further. And I assume we'll hear considerable testimony on the benefits to our local businesses accruing from these machines. And I certainly respect that position and don't want to do something that really harms our local folks. With that in mind, I do note that the bill provides that these machines should be in a separate enclosed location. I would suggest an amendment to strike that provision. I also note that the decal, the decal fee has been raised considerably, I think from \$75 to \$5,000 per fee, it looks like. And I, again, I'm flexible on some of those numbers. You know, again, we still need to look out for our locals. But also as far as the local business revenue, you know, it's my opinion that the industry can adjust to anything. You go into a casino somewhere and you might see advertised, you know, a certain percent payback on their machines. And, you know, as an example, let's assume that on a cash device, they're paying back 90 percent and 10 percent is the profit. If we tax the profit at 2 percent, if that payback was adjusted downward 88%, everybody would be kept fairly whole. They're going to indicate that they can't adjust that. I guess I'd like to hear from them on their inability to make that adjustment. Yeah, they probably can't make the adjustment as the machine sits in the establishment, but I think that they can reset, adjust their profits on those machines and they can keep their profit margins whole it would seem to me, But regardless of any impact, we have to remember that the voters overwhelmingly told us they want casinos at racetracks and they want the property tax relief that it would provide. And the vote was overwhelmingly in favor. And I believe the vote was that way because of the tie-in to property tax relief. But here we have a somewhat similar industry operating outside of the scope of the racetrack casinos with machines that resemble casino machines that don't contribute directly to property tax relief. What we're talking about here doesn't violate the law as mandated by

Nebraska voters in 2020. But I submit that not taxing these machines in the name of property tax relief violates the spirit of the ballot proposal. But some are going to say, you know, these-- these machines are different. They're-- they're skill games. And under our statutes, they are correct in saying that. But I was in a local establishment a week ago last Friday, playing one of these machines and you stick your money in and it looked like what you might see at the temporary racetrack casino with spinning wheels and various characters on each wheel and losing spins would take a matter of a few seconds. And occasionally after a spin, several arrows would appear on the screen above and below the rollers. All arrows would be red, except there is a green one. And I would touch the green one, which would then line up the rollers for the winning combination. Then the screen would switch to about a dozen ducks and two of the ducks would wiggle. So I'd have to hit the two that wiggled and then my prize would be revealed. That whole process-- and that was added to my total. That whole process took maybe 15 seconds and then I was back on to playing there. As long as I remembered to hit the green arrow and the two ducks that wiggled, I was OK. But whether these games really do require skill or if they're simply interactive games with prompts is not the issue before us today. The issue is whether Nebraskans deserve some property tax relief off of these machines and how can we do that in a way that minimizes any negative impact to our local folks? I believe the passage of LB865 will give us a way to regulate more closely the legal games and eliminate the illegal ones and create a better market for gaming across the state. And most importantly, I believe it can provide property tax relief for everyday Nebraskans. Thank you for your consideration.

**LOWE:** Thank you, Senator Briese. Are there questions? Senator Hughes.

**HUGHES:** Thank you, Chairman. Thanks for bringing this, Senator Briese. Newbie, so these games have been around a lot longer. When did the-- when did we as a state vote in [INAUDIBLE]

**BRIESE:** The ballot proposal was 2020.

**HUGHES:** OK.

**BRIESE:** These games have been around, like you say, for a considerable time before then.

**HUGHES:** I was going to say, I think I've seen them a long, many, many years before.

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**BRIESE:** Yes.

**HUGHES:** OK. So I mean, you could kind of argue Nebraskans didn't-- those have been in place. That's a little different than what we voted on in 2020.

**BRIESE:** Sure.

**HUGHES:** And then second, you mentioned that you think there's a lot of the illegal games out or whatever.

**BRIESE:** That's what I've been told.

**HUGHES:** Right.

**BRIESE:** And I do not know that.

**HUGHES:** OK.

**BRIESE:** I assume someone behind me may speak to that.

**HUGHES:** And again, this is just more for me. Right now, the revenue people look like they're the ones that go investigate. Right? Like they check [INAUDIBLE]

**BRIESE:** Yes.

**HUGHES:** --things.

**BRIESE:** Yes.

**HUGHES:** I mean, they're going into those facilities anyway--

**BRIESE:** Yes.

**HUGHES:** --and checking those.

**BRIESE:** Yeah.

**HUGHES:** Do we think they need more staff because this also moves this under gambling?

**BRIESE:** Yes. This will be-- put-- this-- this bill would put it under the jurisdiction of the Racing and Gaming Commission. I think we're going to hear from Director Sage, probably a neutral testimony later relative to some of those issues.

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**HUGHES:** Do you think-- and-- but are you saying that because you think they'll be a better-- they'll regulate it better or?

**BRIESE:** I-- I think this belongs there because it's more consistent with the-- the goals and the operations of the State Racing and Gaming Commission. Again, these are technically skill games, but there is a considerable amount of similarity between what's going on here and what's going on at our racetracks.

**HUGHES:** OK. Thank you.

**LOWE:** Thank you, Senator Briese. Senator Brewer.

**BREWER:** All right. I want to thank you for bringing this bill or not.

**BRIESE:** Well--

**BREWER:** We're going to get into things here. All right. Here's my problem, Tom, is if you go out into my 11 counties and you start looking at, oh, let's say keno and pickle cards, I would guess that if I was to look at my Legions, VFWs and ability to support the fire department, a lot of that is included in what they're going to be spending money on. So if I'm going to have to dig into their pockets to the tune of \$1,000 per machine, right?

**BRIESE:** Yeah, yeah.

**BREWER:** I got a hunch that there's going to be a hanging when I come home. And so I'm trying to figure out how to justify this change.

**BRIESE:** Yeah.

**BREWER:** So help me out--

**BRIESE:** Yeah.

**BREWER:** --because you got some of the same country I got so.

**BRIESE:** You bet. And that's why I say relative to those fees, it's not my intent to run these folks out of business, clearly. My intent would be to do this in the least harmful way to them. And I think that the increase in the fees that we've proposed, as I said earlier, I'm not-- I'm not married to those aspects of the proposal. What I am married to is getting some property tax, more property tax relief for Nebraskans.

**BREWER:** I'm not going to argue that. Just-- and I think if you take a snapshot of the whole state, maybe there's-- there's places where you can gouge and not impact the communities. But as you get to the smaller communities, sometimes literally pickle cards decide whether or not you get a new roof on the building or not. And--

**BRIESE:** Sure.

**BREWER:** --so, you know, it's hard to want to gouge them because--

**BRIESE:** Yeah.

**BREWER:** --there's nowhere to gouge. I mean, there's literally [INAUDIBLE] just, I mean, they usually have to have a fundraiser to seal the deal to get the last of the money for the roof anyway.

**BRIESE:** Yeah.

**BREWER:** So I'll be anxious to hear about our options.

**BRIESE:** And that's a great question. Again and like I said earlier, it's my position that they can reset. They can reset. Now, again, they're going to come in and say, well, these are skill machines. It's-- we can't set the things, but somebody back somewhere can set these things and adjust payouts. I'm pretty confident of that. But anyway, you'll hear from folks that will say that, but they could reset their industry to accommodate for this 2 percent, excuse me, 20 percent of the profits we're going to shave off. And the example I gave is, you know, if they're paying back 90 percent, if their margin is at 10 percent, \$10 on every \$100 and we're taking \$2 of that, they can simply reset their machine instead of paying 90 percent back, pay 88 percent back, and they're [INAUDIBLE] kept whole. Yeah, I think I've oversimplified that. And they're going to maintain that I've oversimplified that, but I think we need to hear from them on that very issue. But the other aspect might be maybe their payback is only 60 percent instead of 90 percent. That-- that changes it a little bit more. But if they're keeping 40 percent and we peel off 20 percent of that \$40, that's \$8, they can adjust their payback to \$8 and kept whole. But I think there's a way that the industry can weather this and be kept whole. We might have to give them some time to do that. You know, we can't just say immediately, you know, you're going to start funneling us 20 percent of the net proceeds. Otherwise, they are going to go backwards there for a bit until they can get reset. But I think they can reset themselves to accommodate this.



**BREWER:** Well, I guess the catch of that is figuring out that balance. Because if you-- if you buy 25 pickle cards and you never win because that ratio--

**BRIESE:** Yeah.

**BREWER:** --is such that you don't have a winner but about once a day, if you're lucky, you know, then you defeat the purpose of it, because then people quit buying it because their chances of winning are so remote unless they just really want to donate the money.

**BRIESE:** Sure. But somehow people keep going to the machines when we're peeling off 20 percent, excuse me, the casinos when we're peeling off 20 percent there for [INAUDIBLE].

**BREWER:** Free booze, I think but all right. Thank you.

**LOWE:** Thank you, Senator Brewer. Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman. And thank you, Senator Briese, for being here and bringing this interesting conversation, something I hadn't known about nor the number of folks involved. So-- well, first off, the Department of Revenue just started regulating these this year, right?

**BRIESE:** Yes.

**J. CAVANAUGH:** OK.

\_\_\_\_\_ : [INAUDIBLE]

**J. CAVANAUGH:** You'll get your turn. You guys can correct me later. But I thought I read a story about some folks getting convicted of the kind of fraudulent way that you're talking about. So there's already some oversight that you're trying to alleviate.

**BRIESE:** I saw the headline, didn't read the article.

**J. CAVANAUGH:** I guess my understanding was there was tax evasion or something along those lines. But I guess my real question is, we just heard from Racing and Gaming Commission, which you were here when we stood it up last year, last two years, and they went from 2 employees to 16, I think, just based off of the six facilities we're talking about. And I thought I heard-- somebody, if they're here, can correct me later-- but they think they're going to go up to about 60 for those

six facilities. Now, like I said, this is a industry I was unaware existed until very recently. And I can tell I'm guessing most of the folks here are in this business, which to me says there's a whole lot of facilities, which I guess my question is the Racing and Gaming Commission needs to get up to about 60 people for six facilities. Isn't this going to-- adding this type of regulation to this kind of just explode the size of the Racing and Gaming Commission and put a whole new thing on their plate when we're already asking them to ramp up to speed on the casinos?

**BRIESE:** Well, we'll have to hear from Director Sage, his predictions as to what that will take. And yes, going back to your question on how long they've been-- they've been doing this for some years, but it wasn't just the last year.

**J. CAVANAUGH:** Thank you.

**BRIESE:** But I think it will be interesting to hear from him as to what their needs might be to handle this. But we are talking about far less machines than-- well, I don't know that we are, but it might be similar to what the casino machines would add up to. I don't know that.

**J. CAVANAUGH:** OK. Thanks.

**LOWE:** Thank you, Senator Cavanaugh. Are there any other questions? Seeing none, are you going to stick around till midnight to close?

**BRIESE:** I will be happy to do that.

**LOWE:** Thank you, Senator Briese. I'm going to change it up a little bit. It's the chairman's prerogative. I'd like the Director Sage to come up and give his testimony now, if he would like to, so that he doesn't have to wait the whole evening.

**TOM SAGE:** Appreciate that. Chairman Lowe, senators of the committee. My name is Tom Sage. I'm the executive director of the Nebraska Racing and Gaming Commission. I'm here to testify in a neutral capacity on this bill. For the most part, I'm here to answer your questions. And from the questions that were answered a few minutes ago, there appears to be quite a few. As far as regulations of the current skilled devices, the Department of Revenue has been doing that for quite some time. I couldn't tell you exactly how long that is. Senator Cavanaugh, yes, the Racing and Gaming Commission, when we're full, six facilities plus fully operational, yes, we're talking 60 employees. As far as

what I believe it would take for the Racing and Gaming Commission to regulate the skilled devices would be an additional 12 investigators, 4 admin staff. In that admin staff, it would be an auditor, would be an accountant. That-- that would be what I'm thinking. I believe from the amount that the tax stamp will be, the industry would fund those additional people. As far as regulations of the machines, I believe we-- in the bill it says the Racing and Gaming Commission would create rules and regulations. I would think that we would want to be somewhat similar to what our casinos are, as we talked about earlier, about minors. We have documentation that people have sent to us of minors playing these games, that they've been sent to the Department of Revenue, and Mr. Rockey's here. He could address that a little bit further. We've seen it. Some of my staff have seen it. One of the main investigators for revenue that were in these skilled games is our compliance director, Casey Ricketts. And she's here, could testify for your questions, for your technical questions about these machines. The-- the-- the issues, as we said earlier and we heard, is the taxation. I've had people call us and say that they've won and haven't been able to pay. People call and say we had to pay a gratuity. All those are referred to the Department of Revenue. I'm concerned for our citizens that we're protecting them. I will stand totally neutral on this bill. We have to make the parameters, I believe, pretty equal. We need to protect our citizens. So I really would answer any questions I can. But again, our compliance director can talk quite a bit about the machines, but a lot of that might be covered by Mr. Rockey from the Department of Revenue.

**LOWE:** All right. Thank you very much, Director.

**TOM SAGE:** Just one other thing. I'm sorry, Senator. I thought there was a lot of talk earlier about pickle cards. These aren't pickle cards. These are mechanical devices that look like a slot machine.

**J. CAVANAUGH:** Thank you.

**TOM SAGE:** Thank you.

**LOWE:** Thank you very much. Are there any questions for Director Sage?

**TOM SAGE:** Sorry. Sorry.

**LOWE:** Senator Cavanaugh.

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**J. CAVANAUGH:** Thank you, Chairman. Thank you, Director. So you're totally neutral, but. Do you think that the Department of Revenue is not equipped to regulate these [INAUDIBLE]?

**TOM SAGE:** I would never say that. I don't think the Department of Revenue has the tools.

**J. CAVANAUGH:** OK I won't tell them. But so you do think that the department-- Racing and Gaming Commission is the better place?

**TOM SAGE:** Senator, I'd never answer that because I believe there needs to be regulation by somebody, and I know there is regulation, but it needs to be much stricter and stronger.

**J. CAVANAUGH:** But that's not a comment on the taxation and the licensing fee we're talking about here. Right? I mean, there's two parts that we're talking about.

**TOM SAGE:** Correct.

**J. CAVANAUGH:** OK. And you have no position on the fees part.

**TOM SAGE:** I don't.

**J. CAVANAUGH:** OK. Thank you.

**TOM SAGE:** Other than if you're going to increase the regulation, you're going to have to find some way to pay for it.

**J. CAVANAUGH:** Right. Thank you.

**LOWE:** Senator Brewer.

**BREWER:** Thank you, Mr. Chairman. All right. Are you familiar with this?

**TOM SAGE:** No, sir, I'm not. That's from the Department of Revenue.

**BREWER:** All right. Well, just so you know, if you open that and look, circled there is what's called pickle cards.

**TOM SAGE:** OK

**BREWER:** That's where I got the term pickle card.

**TOM SAGE:** OK.

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**BREWER:** All right. Just letting you know.

**TOM SAGE:** I just wondered. That wasn't in the bill, Senator. So that's what I was talking about. Thank you.

**BREWER:** OK. I'm going off the data.

**TOM SAGE:** Thank you.

**LOWE:** Thank you, Senator Brewer. Any other questions? Seeing none, I'm going to-- thank you,--

**TOM SAGE:** Thank you.

**LOWE:** --Director Sage. I'm going to continue on with neutral testimony. Is there other neutral testimony?

**BRIAN ROCKEY:** Thank you, Senator Lowe, Chairman Lowe, and members of the General Affairs Committee. I'm Brian Rockey, B-r-i-a-n R-o-c-k-e-y. I'm the director of the Charitable Gaming Division in the Nebraska Lottery at the Department of Revenue. I'll summarize my testimony so that we can answer questions. The Charitable Gaming Division has been engaged in efforts to regulate cash devices for many years after the Supreme Court decision in 2008, 2010. They were then treated as mechanical amusement devices similar to a pinball machine. Our investigators, our inspectors in the field in 2016 began noticing a real increase in the number of devices. We couldn't delineate in how they were handled by mechanical amusement device decals because we didn't know that the decals went on a pinball machine or cash device because the fee was the same. That's when we began requiring licensees to tell us how many devices they were using. That number in 2016, '17 went from 3 to 400, we thought, to 1,600, and it's more than doubled today. And you'll hear from folks in the industry, I'm sure, some of that background. The division has drafted legislation a number of times over the years to-- to address this sort of reporting requirement. We strongly, even though I'm neutral, we are very much in favor of this, of the reporting language that's contained in LB685. It wasn't until LB538 passed in 2019 that we actually had some regulatory authority beyond the simple mechanical amusement device verification process. We attempted to write into the regulations that followed LB538 significant reporting requirements and were not allowed to do so by the Attorney General's Office because the determination was that LB538 didn't cover that sort of activity on our part at the time. So we have since been working toward that. One thing that I would note,

cash devices, the leases are subject to sales tax just like any other leased equipment, as well as the income that operators and distributors gather. Someone mentioned a court case or a criminal case that they saw recently in the paper. That was an income tax issue related to cash devices. We-- without good reporting, regardless of whether or not it's revenue or racing and gaming, it will be very difficult, if not impossible, to know how much revenue is being brought in and how much should be subject to taxation and distribution. I would note that as I mentioned earlier, we have investigators and inspectors in the field and investigators and do this currently for charitable gaming and other activities. So I'll stop and let you answer-- ask questions.

**LOWE:** Please continue.

**BRIAN ROCKEY:** OK. Thank you. The second aspect of the bill, aside from the very critical reporting, is-- is the operational side of things. And as been noted, we've been doing this for some time without a particularly good toolbox, if you will. I have-- the bill that passed three years ago helped a lot. This measure would make a big difference. We have the resources currently to do it. From a-- from a policy standpoint, whichever is fine. I'm totally neutral. I would suggest and we do and I have some information in some binders that I have given to the pages for the committee earlier. But I would suggest that a January 1, 2024, implementation date is awfully aggressive for the type of transition that you'd be talking about. Excuse me. And our-- one of our biggest concerns is the last two to three months of the calendar year are the renewal cycle. And if an agency is going to be taking over, that will be happening at the end of the renewal cycle. It just-- I think it's-- it poses some challenges just logistically. But that's, you know, neither here nor there I guess. There were question about the fees. It's \$250 per device per year and \$500 per testing application. So devices are sent through an independent testing laboratory of-- of-- there are three that are functioning and they were mentioned earlier, GLI and BMM are two of the three. The other one is Eclipse. Lest anyone think we haven't been as vigilant as we can, we got two twice as a result of our efforts with the regulations and coming out of LB538. Once was over the reporting language that we attempted to put into-- into the regulations which the Attorney General's Office ruled we didn't have authority to do. Understandable. And then the other was the requirement that we wanted all devices to go through one testing laboratory at first to sort of lay the groundwork. So that was the process of in 2020, '21, where we got all the devices through one

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laboratory and then operators are free to send their devices, subsequent devices for testing to other laboratories provided we're notified and have approved. I don't know if that's useful or not. I hope it is.

**LOWE:** Thank you. Are there any questions? Senator Brewer.

**BREWER:** Thank you, Mr. Chairman. All right. The standard I use when people come traipsing into my office to have me take a bill for them is what bad thing is happening that is going to force us to change the world as we know it? So using that, what would-- how would you respond to that?

**BRIAN ROCKEY:** Sure. Well, from a-- from a revenue standpoint, Department of Revenue standpoint, the lack of reporting of income right now without the ability to get reporting from the machines, the devices themselves, we don't know how much money's going through. And so it's hard-- it would be hard to verify what the operators or the distributors are reporting. Again, I would mention a case that you might have seen in the media recently that was based on an income tax situation stemming from these devices. There are concerns with report-- with consumer protection. I think it was mentioned earlier that if somebody doesn't get paid, they get referred to us. We can't-- we don't technically have any authority to do anything, but one of our investigators will walk or will go into the establishment and address the issue with-- with the operator. And sometimes that results in, you know, a resolution to the issue. But without, again, the ability to have reporting or any sort of sanction ability-- and I don't want to say sanction too, too harshly-- but without any ability to address it from a consumer perspective, that's-- that's a problem. The-- let's see what else. Again, from a revenue perspective, and I think it was mentioned earlier that someone had seen a payout of \$41,000 from a device. There is nothing in current regulation that says that the operator or the distributor has to provide the necessary tax reporting documentation to the winner. Where you compare that with racing or with the lottery, for example. If you win a prize above a certain amount, we automatically with-- from the lottery, we automatically withhold and report that information to the Department of Revenue and the IRS. So that's a-- that's a tax equity issue I think that would be important to consider. We also have concerns about what is actually a retail establishment. In-- we-- in the-- in the current act and the bill that was passed three years ago, the baseline is four devices per location with one additional device for every 1,000 square feet. So you go into a convenience store and you might see two or four devices,

whatever they can fit in. But then you might-- we have had some applications from-- from instances where maybe they have a convenience store in the front of a building, but the back is just an empty auto shop and they want to partition that up to make it multiple businesses. OK. Technically, if it's going to be a business, it has to have a sales tax permit and be engaged in some sort of sales activity. That's not always what is being proposed by some of the operators. And so the ability to more clearly define a retail establishment would be very helpful. Whether it's, you know, based on gross revenue or a certain amount of sales tax or whatever, that would be helpful, again, regardless of whether it's charitable gaming or racing and gaming that are managing this. There's also no language in the act currently for-- to provide penalties. I mean, there's a penalty of \$1,000 a day per device for a violation. And I think in the bill it ups the-- proposes increasing that. Well, potentially in some of these instances, if someone's been in violation for, let's say, 30 days and they've got four devices, that's \$120,000 and that is probably not the intent of the original \$1,000 a day language. But that's all we have to work with. And I can recall during floor debate on the bill, LB538, that there was, you know, discussion among senators about, well, we don't want to necessarily penalize the little guy. But without clarification on-- on some of the penalties and sanctions available to the regulatory body, that's about all we're left with is, is a real harsh penalty. So that would be very helpful for the bill also, Senator. We also have some concerns and we've seen this. There are some devices that have not gone through testing that-- and consequently have not been permitted as cash devices. They initially were in the field as-- as skill games, but there are multiplayer games, Fish Tables are some you may have seen or heard. And because they have not been submitted for testing, they are not allowed. We have notified the locations and in most cases those machines have disappeared or been removed from the main sales floor. But we get reports that they're active in the back room. We've also had and here's the crux of this. We've also had some information that what they've done is they've altered the machine so that the PlayStation that you're sitting at, you don't put money into that. You make money-- you pay money on an account over here and you're able to play on that machine, on that station at that play table, but you're playing off of a server elsewhere. And so that-- we need something-- the law needs something that would address nonphysical play, as it were. It should be a physical device.

**BREWER:** OK.

**BRIAN ROCKEY:** Sorry. That's an awful long answer to your question.



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**BREWER:** Yeah, that's a long answer to my question. But going back to the penalty part we can write in, I don't see a problem with that.

**BRIAN ROCKEY:** Right.

**BREWER:** Reporting, we can make rules on that. I guess where-- where I'm struggling is the need to go from 30 or whatever to 1,000 on the machines. Now that's the part where I got the real rub because, I mean, I understand you guys are part of Revenue and you like money. But I'm not sure-- I'm not sure the trade is worth what we're going to cause in the way of heartache.

**BRIAN ROCKEY:** Right. We at \$250 per device per year, that's about \$800,000 I think that has come in annually for the-- and it goes to the revenue enforcement fund. And so out of that, we have funded a couple of our-- couple of our positions. So when-- when LB538 passed, the fiscal note for that was two positions. One was a support staff person and the other was an investigator. [RECORDER MALFUNCTION]-- functionality associated with, with managing this program is, is part of what we do in charitable gaming. So our legal counsel, for example, has been kind of the point person on the policy side. And then we had-- we have a gaming analyst position that had some capacity to do some of the licensure work. So Brad is very familiar with a lot of the folks that are here tonight-- today. And then of course, the investigations work, if there's, if there's a complaint, that's spread out among the investigators within the department that are all deputy state sheriffs and managed accordingly. So you're-- the answer to your question, \$250 versus \$1,000, I from a-- you know, I think from an administrative perspective \$250 is probably fine. The bigger question is what the appropriate tax rate would be. And as Senator Briese said, you know, he's concerned about property tax relief.

**J. CAVANAUGH:** OK. Thank you.

**BRIAN ROCKEY:** Yeah.

**LOWE:** Thank you, Senator Cavanaugh.

**BRIAN ROCKEY:** Sorry, Senator Lowe.

**LOWE:** Senator Hughes.

**HUGHES:** Thank you, Chairman. Again, new to all this. Can you explain to me-- because you're saying you're neutral and the gaming people are neutral. The Department of Revenue investigators, are they going into

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these other facilities for something else? Are they only going in to look at these games?

**BRIAN ROCKEY:** They will go in if it's a game-- the inspectors, let's start there.

**HUGHES:** Like, like what I'm trying to answer is--

**BRIAN ROCKEY:** Yes

**HUGHES:** --does it make sense to fall under the Department of Revenue to check into this or does it make sense to file under racing and gaming?

**BRIAN ROCKEY:** From the, from the verification standpoint, it's probably fine either, either, either way. Revenue--and we've got people that are out doing charitable gaming checks, tobacco tax, etcetera.

**HUGHES:** That's my question.

**BRIAN ROCKEY:** Yes

**HUGHES:** They're going in to do tobacco tax--

**BRIAN ROCKEY:** They're doing--

**HUGHES:** --then they're going to do the game then they're-- maybe they have keno there too-- I don't know-- where our gaming and racing have the six casinos and--

**BRIAN ROCKEY:** Right.

**HUGHES:** --and horse track.

**BRIAN ROCKEY:** Right.

**HUGHES:** They're-- you know, I'm-- like, efficiencies--

**BRIAN ROCKEY:** Sure.

**HUGHES:** --is what I'm looking for.

**BRIAN ROCKEY:** Yeah. No--

**HUGHES:** So--

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**BRIAN ROCKEY:** --I totally understand.

**HUGHES:** OK.

**BRIAN ROCKEY:** It's efficient in one location or spread out.

**HUGHES:** So one guy will go do all that stuff--

**BRIAN ROCKEY:** Right.

**HUGHES:** --in that one facility.

**BRIAN ROCKEY:** Um-hum.

**HUGHES:** OK.

**BRIAN ROCKEY:** And I-- having been with our inspectors before, you know, a visit, depending on what the location has, could be ten minutes. It could be 45 if they do a keno tour on it.

**HUGHES:** Right.

**BRIAN ROCKEY:** So checking-- currently with the cash devices, it's just a matter of making sure that it's on the list and it has the appropriate number.

**HUGHES:** So you just look at that machine. Does it--

**BRIAN ROCKEY:** Correct

**HUGHES:** --have a little tag? OK. You were saying something about testing the games. They go to a lab or whatever.

**BRIAN ROCKEY:** Correct. The software has to go to a, to an independent testing laboratory that verifies the device, the device is--

**HUGHES:** Is a game of skill.

**BRIAN ROCKEY:** --a game of skill.

**HUGHES:** And does that happen yearly?

**BRIAN ROCKEY:** No, just on an initial submission, so--

**HUGHES:** Just when you buy it--

**BRIAN ROCKEY:** Correct,

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**HUGHES:** --I have to have it tested.

**BRIAN ROCKEY:** The distributor or a manufacturer will send it to the lab and they're responsible for that fee.

**HUGHES:** And the lab is an independent third party.

**BRIAN ROCKEY:** Correct.

**HUGHES:** And we've approved this list of labs that they use?

**BRIAN ROCKEY:** Yes

**HUGHES:** OK. I think that's it for now. Thank you.

**BRIAN ROCKEY:** OK.

**LOWE:** Thank you, Senator Hughes. Senator Hardin.

**HARDIN:** Thanks for being here. From a million feet up, there are gaming devices, there are games of skill and there's a third category that's in the back room, right?

**BRIAN ROCKEY:** Yes, sir.

**HARDIN:** So are we predominantly today focusing just on the first two categories or are we lumping in the third category as well? I guess the reason I ask is because illegal is illegal, whether we're putting it on this--

**BRIAN ROCKEY:** Right

**HARDIN:** --or selling puppies or baby chickens--

**BRIAN ROCKEY:** Sure.

**HARDIN:** --so.

**BRIAN ROCKEY:** No, if we, if we know that it's there and it's illegal, we will, you know, take appropriate action. And our investigators will coordinate with the State Patrol.

**HARDIN:** OK.

**BRIAN ROCKEY:** And they mentioned Investigator Ricketts and she worked with the State Patrol on at least one case where-- and I can tell you

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from personal experience, about a month ago, we visited a community on a Friday afternoon, about 4:00, to seize devices. And it gets a lot of attention when the State Patrol car rolls up and you have-- so we can and do approach the back room things. And a lot of what, what we get is we'll get a call from law enforcement or from a customer or a player saying-- or even another operator saying, I think so-and-so is-- you know, something's not right and we will inspect that. And I would anticipate the same sort of thing being the case if, if racing and gaming were handling this.

**HARDIN:** Can follow up?

**LOWE:** Yeah, please do.

**HARDIN:** So in clarity of thought for myself, I'm looking at it and saying, is that third category just kind of muddying the waters or is it in fact a big enough issue that it kind of overshadows the rest of it?

**BRIAN ROCKEY:** It's a big issue.

**HARDIN:** OK.

**BRIAN ROCKEY:** I think, depending on one's perspective, people will tell you how big it is. And I heard-- you know, Lynne McNally mentioned something before about the size that they think it is from, from their perspective. The operators may have a different perspective as well. Again, it's you, you can only enforce what you can see--

**HARDIN:** Right.

**BRIAN ROCKEY:** --and what you have the authority to do. And so that's where, you know, LB685 is very important in providing that authority.

**HARDIN:** So we need to pass LB685 before we can look at that third category earnestly?

**BRIAN ROCKEY:** No, I think we can do it now.

**HARDIN:** I see.

**BRIAN ROCKEY:** It, it, it, it depends on what all we lump into that third category. If we're talking about the cash devices that aren't registered that are-- have been put in the back room, we can address that now and LB685 will help with that.

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**HARDIN:** Thank you.

**BRIAN ROCKEY:** Sure. Thanks, Senator.

**LOWE:** Thank you, Senator Hardin. Senator Hughes.

**HUGHES:** Thank you, Chairman. So that led me-- his question led me to another question. So what-- if, if I have a facility that has these and you go and find one that is not in the back room, whatever we're going to call it, what happens? What's the fine? What's-- does my-- does-- do I take-- I don't get to have them at all? Like, what's the--

**BRIAN ROCKEY:** It, it kind of depends on the nature of the situation. So let's say you have four devices and our inspector visits and finds that one of those four does not have a decal on it.

**HUGHES:** OK.

**BRIAN ROCKEY:** The inspector will have a conversation with you. Our licensing team will have a conversation and we'll figure out how did you get the machine, where did it come from and, you know, should the distributor who provided the device-- the, the decal or should the operator do that? And a lot of that is going to depend, excuse me, on the relationship that the distributor and the operator have. So a distributor may say to the operator, you know, I'll provide your four machines and in return, you'll get a piece of the revenue or I'll provide the four machines and I'll give you a flat fee or whatever. But that's going to vary by, by account. So I guess your-- back to your question, when we decide how you got the device and it-- you know, what does it need to be compliant? Is it a device that's part of the pool that's been tested? Yes. OK, then who's going to be responsible for the decal? At that point, it will be sealed and, and, and rang-- you know, inoperable. Then we'd put an evidence seal over the, over the money slot. We'll also-- we also have the ability to clamp off the electrical plugs, although patrons have been known to remove the seal and, you know, break the, break the clamp off and plug it in. But we-- that's kind of when the penalty clock starts. So if-- let's say it's on Monday and it's-- you know, we'd say, OK, you've got to get this taken care of. You've got to get a decal, you've got to get it registered, you got to pay the fee. And our inspector comes back, you know, in a week or two weeks or whatever and it hasn't happened, then we'll make a decision of, OK, are we going into the \$1,000 a day mode or are we just going to seize the device? And in the

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community instance I mentioned a few minutes ago, that particular situation had not-- it had gone many, many weeks.

**HUGHES:** So do you think that \$1,000 a day is sufficient? And-- I mean, do you feel like you have the tools to, to nip this in the bud? Because if you don't have the tools to nip it in the bud, does that-- is that a different bill that we need to introduce--

**BRIAN ROCKEY:** Sure.

**HUGHES:** --that--

**BRIAN ROCKEY:** I-- perhaps up to \$1,000 a day would be more appropriate.

**HUGHES:** So then you could--

**BRIAN ROCKEY:** Right.

**HUGHES:** --adjust.

**BRIAN ROCKEY:** Because I can tell you from, from the charitable gaming side, if we have a violation with a keno operator, for example, or a bingo operator or something, we have latitude. But we may say to them, you know, based off of X amount per day, you're facing, you know, \$6,000 worth of penalties. And we will, if appropriate, negotiate that to, you know, maybe \$3,000, but then there's also remedial activity that they have to undertake to make sure that it's, you know--

**HUGHES:** OK.

**BRIAN ROCKEY:** --correct. So latitude would be helpful. Up to-- you know, language saying up to would be great.

**HUGHES:** OK. Thank you.

**LOWE:** Thank you, Senator Hughes. Are there any other questions?

**BRIAN ROCKEY:** I'll stick around, Senators.

**LOWE:** Thank you.

**BRIAN ROCKEY:** Thank you very much.

**LOWE:** Are there any other in the neutral? Welcome back.

**SHANE GRECKEL:** Thank you. I almost could say good evening now, but not quite, so still good afternoon, committee members. Thank you for taking the time. And thank you, it looks like, to the public too for taking a good interest in it. My name is Shane Greckel, S-h-a-n-e G-r-e-c-k-e-l, and I am the vice chair of the Nebraska Racing and Gaming Commission today, testifying in a neutral capacity, trying to offer as much fact as we can. In concerns of LB685, the skill games, cash games-- and I'm sure you've heard this from Brian previously, it's basically a \$250 fee per month-- per machine per year. NRG, it would probably be taxed at a little bit different rate, 20 percent instead. So your revenue is going to be better tracked on stuff like this. To me, it looks like we got about 4,000-plus devices in the majority of Nebraska counties, so these machines as well, based on some of the limited information that I, I have seen. Just to understand too, that's more machines than I think some of the permanent facility is estimated to have so that's a lot of machines out there. A lot of things are going on with these machines. I hear software might be different. However, the physical structure of them is very, very much like a slot machine. In fact-- and I believe it is the GLI-11 code that they both have to be tested too, exact same standard as a slot machine. So again, let's take a look at it on very aggregate of what they are and what they do is very, very similar. I would like to applaud the industry that the NR-- the NRG has been working with. WarHorse, Elite, some of the casinos that are open have been quantifying and tracking data wonderfully and as well as staff at NRG as well have been quantifying these numbers. It's very easy to understand, follow traces and understand if a problem is occurring or if there is one upcoming when this amount of data is collected responsibly and quantified. And I'm not seeing that so much in the current phase of these machines. I have some personal stories, but I'll leave those out on that. I would try to answer any questions. Again, this is a new industry. This is kind of new to NRG, but I would be happy to try to answer any questions or direct them to our executive director.

**LOWE:** Thank you, Mr. Greckel. All right, any questions? Senator Brewer.

**BREWER:** All right, just for a little careful-- clarification. If this fact sheet they gave is from the Department of Revenue is correct, 2022 cash device decals paid for: 4,883. Cash device revenue generated: \$1,220,750. That equates to \$250 per, just for your information.



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**SHANE GRECKEL:** Um-hum. Thank you.

**BREWER:** No problem. Keep up the good work.

**SHANE GRECKEL:** Thank you.

**LOWE:** Thank you Senator Brewer. Are there any other questions? Seeing none, thank you.

**SHANE GRECKEL:** I get out of here early. Thank you again for the time.

**LOWE:** Any other--

**MIKE SCIANDRA:** Good afternoon, everybody. My name is Mike Sciandra, M-i-k-e S-c-i-a-n-d-r-a. I'm from here in Lincoln, Nebraska, and I am here today as a disordered gambler in recovery, a problem gambler, a problem gambling treatment advocate, a member of the Nebraska Council on Problem Gambling and a concerned citizen. I work in education and outreach for a local addiction treatment center, but that is not my motivation for being here today. In all of my education and outreach work in the community, I take a neutral stance on any legal gambling activity. I take that same neutral stance on LB685. My main objective today is to give some viewpoints on these amusement games, skill touch machines as they can be referred to, from a problem gambling viewpoint. For nearly a decade, one of my main outlets of my addiction was skill touch machines. I knew where all the machines were in Lincoln, as well as other communities throughout Nebraska. I could spend large amounts of money in a short amount of time on these machines, sometimes winning, but often coming out way behind. The activity was heightened even more during the early months of the pandemic up to 2020. While other places to gamble were either not open or undesirable due to virus concerns, I found myself visiting bars, gas stations, truck stops and any other location where skill touch games were located. I never kept track of the money I spent on my gambling, but I know thousands of dollars over the years were lost in these machines. However, more concerning than the money was the loss of time, motivation and overall emotional help-- health I felt while deep in my addiction. The intense feelings of anxiety, grief, shame and depression I experienced within my addiction are emotions I never want to experience again and are part of what fuels me to remain active in my recovery. From a professional perspective, I can speak from the experiences of working in an outpatient problem gambling treatment center alongside a team of certified disordered gambling counselors. I know that a significant amount of our clients have

struggled with problematic use of skill touch machines, either as their primary or one of their co-occurring sources of addiction. Beyond their struggles with problem gambling, co-occurring addictions and mental health concerns are usually present and may have engaged-- and they may have engaged in an illegal activity fueled by their continued problematic gambling behavior. The link between the ease and availability of these machines and the continuance of problem gambling behavior is obvious and undeniable. I want to note that for myself, I voluntarily self-excluded from Nebraska casinos and casinos in neighboring states. I know that this is true for many of our clients as well. However, once again, the availability of skill touch machines in so many locations is hard to resist for those who are struggling with problematic gambling behavior. With this background, some of the questions I have regarding the presence of skill touch and other similar games in Nebraska are as follows. How do we ensure proper ongoing supervision during operator business hours of these devices in hundreds of locations throughout the state? How do we keep children, regardless of the legal age minimum, away from these machines? This is a great passion to me because of the link between youth gambling and problem gambling and I'd be happy to give you more stats after we're finished. Are we able to educate the players and operators of these devices on the local and statewide problem gambling treatment resources available? What responsibility do operators have to respond if a crisis situation occurs due to the problematic play of these machines? And is there a way to ensure that the existence of these devices within so many of our Nebraska communities is creating a net positive outcome for the areas in which they're placed?

**LOWE:** Mr. Sciandra, your, your light is on and we have a lot of testifiers so I have to.

**MIKE SCIANDRA:** There's not many that are testifying like I am, though--

**LOWE:** No, they're not.

**MIKE SCIANDRA:** --so.

**LOWE:** Are there any questions? No questions. Thank you. Are there any others in the neutral? Seeing none, we will now move to proponents of LB685, those in favor.

**LANCE MORGAN:** Lance Morgan, Ho-Chunk Inc., and from Winnebago, Nebraska.

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**LOWE:** Just please spell your name, Lance.

**LANCE MORGAN:** Oh, L-a-n-c-e M-o-r-g-a-n.

**LOWE:** Thank you.

**LANCE MORGAN:** I'm, I'm glad the neutral went first because it created a lot of background information that I don't-- I'm going to-- so I'm going to change my testimony up a little bit. And I'll just tell you how I became aware of this. You know, I've seen these machines here in there, bars. You know, the Santee got raided by the feds 15 years ago for having some of these, but apparently it's OK elsewhere. But I walked in-- you know, obviously, the War Horse effort has heightened my awareness of this. And I have a place in Omaha and I walked down to the Cubby's, downtown Omaha, and there are seven machines in there and I'm watching them play it on Friday night. And I said, what are these? So I started doing more research. I found out there's, like, 4,000 of these. There's only going to be about 4,000 slot machines in the six regulated casinos. So I said, well, what-- so we started doing more research. They're not taxed. They're not regulated. And I have-- Rachael Johnson, one of my employees, I sent her on a statewide tour to sort of get some information on this. And I think it's, it's unbelievable that, that this competitor has sort of built up. You know, we've marketed this thing as a-- six casinos. You know, that's a limited expansion. But there's essentially an entire industry that's the exact same size and growing rapidly competing with us. I wanted to answer a few questions that had come up. And I think for Senator Brewer, we're worried about the fee. I got to-- not only was I interested in this, I got an email and a phone call from a company in New Jersey that promised to put them in our slot machine-- our, our casinos-- or not our casinos, our gas stations. Now, we own six gas stations in rural Nebraska. And I can feel for some of the people in this room probably because it's a tough business. And what they offered me was we will-- these are legal. They're regulate-- they're legal is what they said. We will pay you. We will put them in, will pay the fee so they, they're not even-- so the individuals aren't paying the fee. And we will, and we will give you 50 percent of the revenue. So there is a company who offered me a deal to take 50 percent of the revenue to New Jersey. So we're talking about a 20 percent tax. We're talking about-- we're worried about hurting individuals, but maybe that deal should be renegotiated. You know, obviously we didn't do it, but we were very interested in it. So-- and it's not just mom-and-pop. Casey's is putting 60 of them in 16 stores. U-Stop has them across the street from the War Horse and they built

the facility specifically larger so they can get more machines in there. I went to play these machines in various places and I can't tell the difference between them and the slot machine. I asked what the skill was and they said, your skill, jokingly, is push the button. You know, I went to a fancy law school and they're going to be embarrassed by this, but I, I don't remember much, but I remember a famous case that was dealing with pornography. And the justice said, he goes, it's hard to describe, but I know it when I see it, you know? And every Indian knows a little something about what slot machines look like. And that's what these are, right? There's no doubt about it. They're marketed as casinos. They look like slot machines. And they-- and we need to level the playing field because it's unfair that we're competing with, with people who don't pay any taxes and there's no regulation on this whatsoever. So that is my statement.

**LOWE:** Thank you very much. Are there any questions? Senator Brewer.

**BREWER:** Lance, when we were talking with the Department of Revenue, it was kind of thrown out there the, the example-- this \$41,000 that was won by someone. I assume that was, was here in Lincoln?

**LANCE MORGAN:** That wasn't us.

**BREWER:** Wasn't us.

**LANCE MORGAN:** I think, I think he was referring to-- I can't put words in his mouth, but I think he was referring to, to these skill games, you know? That's somebody that--

**BREWER:** [INAUDIBLE]

**LANCE MORGAN:** Must have been the LeBron James of skill games.

**BREWER:** Oh, OK. And essentially what he's saying is you could win X amount, \$41,000, whatever, and there's no accountability or taxation of that money that you win. Because if, if you're at a casino and you win, that's tracked, right?

**LANCE MORGAN:** Yeah, everything, everything we do is highly regulated. And, you know, from the, from the machines we put in, from the testing we have from how-- and it's ongoing. I think in these skill games, there's an initial sort of check, but then, then there's not a whole lot of-- but they can be changed fairly easily. You know, you test-- they can have maybe up to 20 games on the same machine and so you can just flip the switch at any time and nobody's checking.

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**BREWER:** Thank you.

**LOWE:** Thank you, Senator Brewer. Are there any other questions?  
Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Lowe and thank you, Mr. Morgan, for being here again. So-- I mean, you're right, there was a lot of background given and I was unfamiliar with these. I, I-- as far as I know, I think I've seen one in person, but I'm not 100 percent certain of that now that I've seen some pictures of these things. But this bill does both regulation and taxation, right? And so we've heard some compelling arguments that maybe we need to beef up regulation. But I guess I'm wondering what the argument is to increase the amount of taxation other than the desire to put more money into the property tax pool.

**LANCE MORGAN:** Well, that actually-- I mean, we support the idea of regulation. I think the taxation is sort of to create the level playing field, but I think that's a desire by some senators to have increased revenue. That's not something we've really focused on. I worry that taxation creates legitimacy for these. And what I worry about when I see these is it seems a little bit, I don't know, un-Nebraskan. You know, it reminds me a little bit of South Dakota where they have these machines wherever they are. It looks a little seedy to me. I'll just say the terms-- I'm getting booed, but-- and, and so I think it's more like making sure they're protected. I've seen kids play them. I've-- you know, it's just a-- it's, it's very unusual. And I don't think it was planned. You know, the company BankShot, they had a lawsuit and they won on a very technical ground. And, and so, OK, they're out there, but this has been the loophole that you drove the truck through, right? And so-- and you're talking about keeping it under control. It's already out of the bag. I mean, the horse is out of the barn. And there's more of these than there are going to be legal machines in the state and regulated. I can't say illegal. That's the wrong term. Unregulated, I suppose, is a better term.

**LOWE:** Thank you.

**J. CAVANAUGH:** I have--

**LOWE:** Senator Cavanaugh, one more?

**J. CAVANAUGH:** One follow-up.

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**LOWE:** And please, no outbreaks. We're just trying to keep this civil in here today.

**J. CAVANAUGH:** Well, so just to follow up on my question, so if we were to somehow make some kind of compromises on this bill, your biggest concern would be the regulation portion and not increasing the fees and registrations and taxation on it then.

**LANCE MORGAN:** I think, I think it's important to create the regulatory environment for sure. And that's probably where the Gaming Commission is developing extreme expertise. I mean, these guys are getting good. They're on us on every little thing. And so I think-- and, and I think what happens at the Revenue Department, it's almost like-- they remind me of my accountant sometimes, but with badges. And, and so it's a different-- it's a totally different mindset and approach. And I think the regulatory element is supreme. But if, if I'm going to compete with machines that look and function exactly the same, I would like to have a-- some sort of tax rate that is, is similar. It just only seems fair. Think about the alternative. I could just take these skill machines that look like slot machines, put them in the legal casino and not pay any taxes on them. I mean, that's how ridiculous this could get. You know, I'm not going to do that because I think I would be vilified. But I just think this scenario could be played out in lots of different ways and the taxation creates a legitimization to it, but it also at least creates a level playing field.

**J. CAVANAUGH:** Thank you.

**LOWE:** Thank you, Senator Cavanaugh. Any other questions? Seeing none, thank you, Mr. Morgan.

**LANCE MORGAN:** Thank you very much.

**LOWE:** Welcome.

**RACHAEL JOHNSON:** Thank you.

**LOWE:** You've been here a while.

**RACHAEL JOHNSON:** What was that?

**LOWE:** You've been here a while.

**RACHAEL JOHNSON:** I have. Honored to be here. My name is Rachael Johnson. I'm with Ho-Chunk Inc. R-a-c-h-a-e-l. As Lance alluded to in

his comments, I took a long trip across the state, stopping in over a dozen towns, visiting over 100 of these machines. And I just wanted to share with you all some of my findings and my insights from this trip. So first of all, the first comment I'll make is that these machines are absolutely everywhere. Every one of your districts has these machines in them and they are all over the state. The first big concern that I'd want to raise is that of safety and security. A lot of these places that hold these machines are not the most upstanding businesses in town. A lot of them, in fact, are hotbeds for what I believe to be illegal activity. I saw drug deals at some of these locations just happening right out front. There's also very few places that have security cameras, surveillance in place to oversee these machines. And some of these places are, in fact, not even manned at all. So there's no way for anybody to tell what's going on in there. Their-- one location I visited was just in a strip mall with an open room and some machines on it. And there was a number to call if you needed cashed out, which leads me to my next big finding was that not a single one of these places was I-- I done-- was my age checked, did I have my ID checked, whether it be to play the machine or to cash out. And this really, I think, encourages underage play. There's a photo in here that I'd like to bring your attention to on the first page where I was getting dinner one evening and turned around and saw there were children with a chair pulled up to one of these machines and their parent putting \$20 in to allow them to gamble. And that was the word that they used. I think these places, beyond just the open access to minors, some of them even seem to be encouraging this underage play, placing the machines right next to the candy. Data shows, as someone talked about earlier, that children who are introduced to and begin gambling by the age of 12 are four times more likely to become problem gamblers. Lastly, I'll highlight the lack of player protections that are in place with these machines. Every place has different rules scribbled on pieces of paper taped to the walls. Some of them require a 10 percent minimum tip if you hit a jackpot. Some of them, if you walk out of the facility with your ticket and come back in to get it cashed, it's void. You can't even walk out of the building with it. These are people who it's their money and they're just being taken advantage of. Similarly, on this trip, just about every location I went to, if I were to cash out and say I had a \$10.40 ticket, I would go cash in my ticket and I would get \$10 back. And I'd ask, you know, where's my change? We don't give change. That change continues to lie in the operator's pockets. So overall, I'd just like to say that I don't believe that these machines are consistent with Nebraskan values. I think they are a hotbed for

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corruption. They're deceitful and I think they're harmful to our state.

**LOWE:** Thank you, Ms. Johnson.

**RACHAEL JOHNSON:** Of course.

**LOWE:** Are there any questions? I saw you had a picture of the Hilltop in Kearney.

**RACHAEL JOHNSON:** Yes.

**LOWE:** How many machines are in the business? Do you remember?

**RACHAEL JOHNSON:** Oh, I cannot recall off the top of my head, but I could go back in my photos and confirm with you because I did take photos across my, my trip across the state. So I'm happy to go back and check and report back to you.

**LOWE:** Thank you. Senator Hughes.

**HUGHES:** Thank you, Chairman. Thanks for coming in, Mrs. John-- Ms. Johnson.

**RACHAEL JOHNSON:** Of course.

**HUGHES:** What made you do this? Like, I, I-- maybe I missed-- what's your background? Like, what-- I have never paid attention to this one bit so now I'm curious, like--

**RACHAEL JOHNSON:** No, I think-- so I saw that it was a growing problem and I work for Ho-Chunk Inc.

**HUGHES:** You do work--

**RACHAEL JOHNSON:** Yep and I saw that it was, you know, growing in our state and I wanted to better understand the issue. I wanted to better understand the problems and what truly was going on with these machines, just to understand them and see what the similarities are, what the differences are. And what I found is there are a lot of similarities, but in regards to regulations and the way in which they're used across the state, there are a lot of differences between what's happening at the legitimate casinos and these, quote, skill casinos, as they call themselves.

**HUGHES:** Thank you.



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**RACHAEL JOHNSON:** Yes.

**LOWE:** Thank you, Senator Hughes. Any other questions? Seeing none, thank you.

**RACHAEL JOHNSON:** Thank you all so much.

**LYNNE McNALLY:** Last time. Lynne McNally.

**LOWE:** I hope so.

**LYNNE McNALLY:** L-y-n-n-e M-c-N-a-l-l-y, representing the Nebraska Horsemen and War Horse. I am the, the compliance side of this on the Horsemen side and the casino side. I'm probably the biggest and most frequent recipient of the Racing and Gaming Commission's oversight. I want to give you a real quick rundown of what we have to do to get a slot machine onto the floor. You need five days, business days notice to the gate-- Racing and Gaming Commission in order to ask for one to be able to order it. Once you get their permission, it gets shipped to the facility. The Racing and Gaming Commission meets you there so that they can watch you unload it and place it. Before it's allowed to enter the state, you have to give them your floor plan and you have to show them on the casino floor where this machine is going to be placed exactly. Once it's placed there, it is hooked up, tested again by GLI. We use GLI for everything and it is constantly monitored from that moment on. For example, if there was a problem with a machine that the commission noticed or something like that, Tom would call me and say, Lynne, machine 5372, tell operations I need a report on that machine from 9 a.m. to 10 p.m. I have to pull it. I'm required to by the rules and regs in, in state law. So I give them the report. They can ask for literally anything they want. They can ask for an hour report if they want to. That's typical of every casino in the state. Senator Hughes, if, if we did the kinds of things that you were talking about with Brian Rockey about, the numerous violations, that kind of thing, a single incident of that could cause us to lose our gaming license that we paid \$5 million for. So we are fully compliant at all times. We have to be because if we're not, then we can lose our license. It's very, very strict. The things I'm talking about, they have to do none of this. We have the VeriDoc system, which is very pricey. You have to run someone's driver's license each and every time they go in the casino. It's currently a problem at Fonner Park because their casino, their restrooms are right outside the door. So when you leave, they are required by law to card you again, even if you were there three

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minutes ago. So we're subject to numerous, numerous regulations. They have to do absolutely none of this. None of it.

**LOWE:** All right. Thank you, Ms. McNally.

**LYNNE McNALLY:** Thank you.

**LOWE:** Any questions? I appreciate your testimony.

**LYNNE McNALLY:** Thank you.

**LOWE:** Thank you. And we'll see you some other time.

**LYNNE McNALLY:** OK. Thanks.

**LOWE:** Are there other proponents? Yes, please come. Welcome back.

**LORETTA FAIRCHILD:** Hello again. Thank you for your patience. I am Loretta Fairchild, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d. I am an economist specializing in taxes and govern-- how government spends its money. I was raised on a small farm in the Panhandle and my heart is in rural Nebraska. So I am starting with my planned testimony and then I would like to bring in a very different level for rural Nebraska. I am here-- happy to admit that I can endorse all of what is in LB685. The-- it's lovely to see regulations spelled out in an operational manner. This is where I'm changing so I don't say this quite as well. I'm also very happy to see this rural crowd here and I was very happy to hear our Omaha senator admit that this is a brand new issue. And I would like to have this-- I would like to add I realize it won't impact LB685, but it should impact the Legislature as a whole. The issue here that is unspoken is how should town government be funded in the state of Nebraska? Pickle cards is not an OK way to fund anything in this state. We have a Governor who did manage to just say out loud that in the school appropriations framework, schools, rural schools, because of isolation and low population numbers, have much higher costs. And the funding mechanism must-- for the whole state, must move more money into rural schools. And so I am calling-- that's just an example. But so I would like this to be a call to all Lincoln and Omaha senators to say, hey, the world is really different out there. Please start paying attention to funding rural government. Local government matters and pickle cards should be fun, not the way you run your valuable institutions. So this L-- in that sense, LB685 is only moving the deckchairs around on the Titanic. Because while I want LB685 to happen and it's very important in its own right, when the funding is adequate and consistent and small towns know how much money

they're going to get to run local government year after year after year, you have a whole different world. Thank you.

**LOWE:** Thank you, Mr. Fairchild. Are there any questions? Seeing none, thank you very much. Are there any more proponents? And just to let everybody know, at 8:00, we will be taking another break and so try to stay in your own seat so you everybody kind of knows where you're at and--

**GARY QUANDT:** Thank you, Senators. My name's Gary Quandt, G-a-r-y Q-u-a-n-d-t. I'm a Hall County commissioner. I'm here in support of LB685. In 2020, the voters of Nebraska voted for casino gambling at horse racetracks and in, in all of Nebraska, in the six places that are liable-- or that can have it, for two reasons: to help the horse race industry, property tax relief. Now we're getting these games of skill. Cash, cash bank-- like bank slots or whatever, we're getting them. They're calling them casinos. And I mean, I handed out one of these to you. This was in the Grand Island Daily Independent [SIC] the other day. If you walk up to one of these games of skill machines, cash devices, you put your money in and you're either going to walk away with less money or more money. In my opinion, it's still gambling one way or another. Even the game-- Department of Revenue calls the money that you put in these machines wagers. I know two bar owners that have told me that these games of skill, they had them in their bars before they closed. They were the easiest way to make cash money that there was and unreported cash money. One of the bar owners told me that he paid, he paid all of his taxes and he paid all of his utilities with the money made at it. In Hall County, we have keno. The proceeds that we receive from the keno, we use that for community betterment. One of the community, community betterment deals, we put \$10,000 towards our veterans and our veterans and things so the monies are-- the monies that-- the proceeds that we get from gambling are used for community better, which they're supposed to be, and help other nonprofits. I've been told from various people in the Revenue Department that some of these machines bring in over \$100,000 a year. There's a lot of money that run through these machines. There are problems in the state with these machines like I just handed out to you. You know, not everything is great about it. All I'm asking is that with LB685, which I'm in favor of, is to make the even playing field with the casinos. It's-- you know, the voters voted in the casino gambling and it's going to fail if we don't have an even playing field with these machines. So I ask for your support on LB685.

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**LOWE:** Thank you, Commissioner Quandt. Are there any questions? Seeing none, thanks for coming out.

**GARY QUANDT:** Thank you.

**LOWE:** Are there other proponents? Other proponents? OK, now we're going to start on opponents. And if you would like to move up to the front as we kind of go along and we'll kind of peel off the front row, first come, first serve type thing.

**MATTHEW PHILIPPSEN:** Chairman Lowe, members of the committee, my name is Matthew Philippsen, M-a-t-t-h-e-w P-h-i-l-i-p-p-s-e-n. I'm one of the owners of Trestle Manufacturing and Midwest Amusements. We manufacture peripherals for different lotteries around the United States. We are the third-largest manufacturer of these skill games in the state of Nebraska. Back in 2019, I received a call at our headquarters down in Houston, Texas, from a lawyer for the department of charitable gaming. He asked us about our machines because they seized some machines that were-- they deemed illegal and we had no idea that they were being put out here because we were selling to the state of Georgia. Well, at that point, we talked with Gaming Laboratories International and they explained what was going to happen. And we decided to move our headquarters to Omaha, Nebraska, to be able to build our business, hire people from out of state and bring them here and veterans in-state to follow the rules and regulations that LB538 was putting in front of us. So in 2020, this bill was passed. In 2021, we submitted devices to be tested. We had two devices that were approved by the department of charitable gaming that follow the standards in GLI-11, along with the definitions that the state has determined what a skill game is. The reason I did not give you these regulations and the testing standards is that I would have had to print off over 1,600 pages for you and I don't think you-- I can email you those standards and the testing lab reports at any time. In this right here, it-- part of the lab report and our, our standards that we have to follow is that we cannot manipulate the software. We cannot change that percentage because we need to protect-- we ensure-- when I sign that affidavit with the charitable, charitable gaming department is that we cannot change the percentage that pays out. Therefore, it protects the player. So moving forward, OK, we have followed the rules and regulations, OK? These are skill games and not casino games. And with our future being a manufacturing company and continuing to hire people here in Nebraska and expand our tax base and use it as a manufacturing facility to ship products throughout the United States, we want to have that confidence to continue doing that going forward.

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So we're against this bill. I hope you oppose it. I will open it up to any questions you might have regarding technical standards and our manufacturing expertise.

**LOWE:** Are there-- Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman, and thank you for being here-- I'm sorry, was it Philips--

**MATTHEW PHILIPPSSEN:** Philippsen.

**J. CAVANAUGH:** Philippsen, OK. Where's your manufacturing located?

**MATTHEW PHILIPPSSEN:** In Omaha.

**J. CAVANAUGH:** But where in Omaha?

**MATTHEW PHILIPPSSEN:** Right on F Street between 72nd and 84th.

**J. CAVANAUGH:** Oh, OK.

**MATTHEW PHILIPPSSEN:** Yeah. So we're actually looking at purchasing a larger facility in Bellevue. We have an offer on a place that would considerably expand our footprint in Sarpy County to be able to expand our manufacturing business, not just for Nebraska, but for the rest of the United States.

**J. CAVANAUGH:** And so you're-- yeah, so you're manufacturing not just for Nebraska.

**MATTHEW PHILIPPSSEN:** Um-hum.

**J. CAVANAUGH:** OK. So in terms of the-- this-- you're-- so you're saying you can't change the payout from 90 percent to 88 percent like Senator Briese was--

**MATTHEW PHILIPPSSEN:** No, that's the whole point is that-- to be able to protect the consumer, all right? That was part of the law that was in here that you cannot change that percentage once it's, once it's certified--

**J. CAVANAUGH:** OK.

**MATTHEW PHILIPPSSEN:** --OK?

**J. CAVANAUGH:** And when is it certified? Is it certified as, like-- is there one type of device that's certified? You can't change it. You'd have to make a-- that type subcategory?

**MATTHEW PHILIPPSEN:** Yeah. So basically-- right, so we have six devices that are approved here in the state, OK? Each one gets tested by the, the Gaming Laboratories International, OK? They communicate with the Department of Revenue, which we have no ability to communicate during that process. It is-- that's the whole point of having an independent testing laboratory. So once that goes, is it-- once we submit something or is approved, we can't touch anything. We can't change anything after, after the final report is submitted. So to think that you have devices that are approved games of skill and then have to go back and try to change software, it doesn't, it doesn't work that way in terms of software programming, OK?

**J. CAVANAUGH:** So realistically, what would happen if this bill were to pass, all the folks, I assume, here who have these devices would need to buy a new device?

**MATTHEW PHILIPPSEN:** That's correct. So we-- so where we're at is that out of the 4,800 devices, OK, Trestle Manufacturing has supplied about 1,300 of those approved devices through to my other company, Midwest Amusements, OK, as well as upstanding, correct distributors, OK? The bad eggs you hear about, that's out of our control. We don't sell product to the bad eggs, OK? We work directly with the, with the Department of Revenue. If we find something, we're the ones calling it, OK? We're the ones informing them and they do go off right away. In fact, I was actually just recently invited to Colorado to speak on security of these devices, OK, by the Department of Revenue, OK? Because inside these standards, we have put alarms on there. We have been able to put accounting tracking methods with regards to if the power goes off. Power comes on a week later, every single data is backed up inside the, the device, OK? So from a-- you know, when I hear that there is arguments of illegal gambling, systemic gambling going on here in the state, we have to respect that we just disagree because I know what my manu-- my competitors who also manufacture product, what they do as well. They do not sell illegal gambling devices here in the state, OK? And going forward, all right, by having to continue to abide by these standards right here, I cannot risk ever doing anything wrong because I jeopardize my license to be able to do work here in the state and grow my business. So that's what we're at and that's where we stand on this situation.

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**J. CAVANAUGH:** One more question.

**LOWE:** Continue.

**J. CAVANAUGH:** Sorry. Thank you. So I-- if you heard Mr.-- I can't remember if it was Mr. Sage or Mr. Rockey-- talk about the requirement or the necessity for reporting. That's not currently something that's being done in the devices you sell in Nebraska?

**MATTHEW PHILIPPSEN:** So on the-- inside the devices themselves, right now, OK, there is accounting reporting that's, that is based on GLI-11 standards, OK? All this accounting is backed up for over 30 days inside the device, OK? Every single play-- and pardon me, I've never heard of a 40-- \$41,000 payout. That does not, doesn't exist, OK, here in the state because our machines don't do that, neither do our competitors. The point being is that if there is a play that is argued-- for instance, Casey Ricketts, who now works for the casino commission, used to work for the Department of Revenue. Somebody argued that they were supposed to get paid something out of one of our locations here in Lincoln. Take her down there and we show the play. It's on camera. We show the fact that the person didn't win because it's all backed up in the data with individual screenshots. And that is part of the standards that are inside these devices, OK? So again, going back to the fact that are there bad eggs in the back room, we can't control that. People are going to do what they're going to do in the back room or in the privacy of their own home. So-- but what we can do as one of the top manufacturers in the state is to guarantee you that our devices are games of skill and are certified and they are not illegal games.

**J. CAVANAUGH:** Thank you.

**LOWE:** Thank you, Senator Cavanaugh. Senator Hughes.

**HUGHES:** Thank you, Chairman, and thanks for coming in. So, like, this article that they had these games of skill and didn't report income, I'm assuming that every owner-- and maybe I can ask owners too-- you can generate a report by day or by month of what you've made--

**MATTHEW PHILIPPSEN:** Absolutely.

**HUGHES:** --off that machine and what it's paid out.

**MATTHEW PHILIPPSEN:** Absolutely.

**HUGHES:** They use that for their tax records.

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

**HUGHES:** Thank you.

**LOWE:** Thank you, Senator Hughes. Any other questions? So-- oh, yes, Senator Hardin.

**HARDIN:** Thanks. I haven't played the games. I have heard it said that they're terribly similar to registered games of chance. I've heard they're different. Grant us your perspective.

**MATTHEW PHILIPPSEN:** So here's a perfect-- here's my perspective. And let's-- to go back to what Senator Briese said of how long it took him to play one of the games. It took him 15 to 20 seconds, right, because he's interacting with the software to make a decision on a win or loss. Or in our case, on every single game that is our software that is out there and our competitors, you can actually always win. There's always a secondary game you can play, whereas a game of chance in the casinos or any casino in the United States is that if you just press the spin button, that's a half a second. There is a complete difference between-- as to the interaction of skill and the choice to be able to make matches that is deemed based on the regulations that you guys-- or the state of Nebraska voted on and passed in 2020 and that's what we follow. So if you were to put this under the Racing and Gaming Commission and taxed the same as a, as a casino game, will then change the software and have casinos, but that doesn't make any sense. The Department of Revenue has been regulating these for a while now and this is the first year that the bill has actually been in place or the-- that we're-- it's required to have a 100 percent certified product out there. So does that answer your question with regards to the difference?

**HARDIN:** Somewhat.

**MATTHEW PHILIPPSEN:** So if you look at the games-- so for instance, I could go play a game, OK? Whether it be, you know, Three Pigeons or something like that, right, and I have to make a match and then I have to make a secondary match, all right? I have to use my memory to be able to obtain the win, OK? If I'm playing a dollar and I match and I only win 50 cents, I can still play to obtain an extra 50 cents plus another percentage. Therefore, the games are-- can be upside down and not a game of chance. If something can be upside down always, then



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it's not a game of chance. It's a game of skill, OK? And that's the, that's the difference between games of skill and games of chance is because you're using your mind, you use the match and you can always beat the machine.

**HARDIN:** Thanks.

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

**LOWE:** Thank you, Senator Hardin. Are there other questions? So you had touched on the altering the payouts. Can you alter the payouts in percentages?

**MATTHEW PHILIPPSEN:** No, I cannot alter the percentages of these games that are here right now that are deemed legal by the state of Nebraska. I can't-- I cannot do that right now and nor would I want to because at the end of the day, which I find a little-- very interesting that somebody would propose, oh, let's just change the percentage because essentially, you're just hurting the player, OK, at the end of the day and taking more money away from the player. It doesn't-- that doesn't make sense to me as a manufacturer of-- a software manufacturer, OK, because essentially then you're cheating the player, in my opinion. And that's the whole point that these regulations were put in place, to protect the players in general, all right, and, and the locations and the department of charitable gaming.

**LOWE:** You spoke about locations where-- we saw pictures of them next to the candy pile and things like that or, or not in view of the cashiers. You know, the people from Ho-Chunk came and testified that somebody from the Racing and Gaming Commission has to show up to see where that machine is going to be placed. Do you have that same thing, do you know?

**MATTHEW PHILIPPSEN:** Well, with the department of charitable gaming no, but with regards to being a manufacturer and a distributor, OK, we require all the players-- we put stickers on the machine that everybody has to be above 21. We put signage at the locations saying that everybody has to be above 21. That's what we have to do. We're not putting teddy bear machines next to these machines, OK, all right? That's not, that's not our business model and the spirit of this business. And neither is it the business model of the top ten distributors here in the state as well, OK? Again, you're dealing with people that you-- the back room people, OK, that at the end of the day, though, the charitable gaming shuts down when they get a call and

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they find out that there might be-- you know, they're not paying the taxes with them.

**LOWE:** I was under the assumption there was probably only two or three companies in the United States that manufactured these machines. How many are there? I mean, if you're just one of--

**MATTHEW PHILIPPSSEN:** Well, I just know--

**LOWE:** --several in Nebraska--

**MATTHEW PHILIPPSSEN:** Right. I know that there are six approved manufacturers here in Nebraska, OK? Well, us and my competition, American Amusements, we are based in the Omaha area, OK? The other manufacturers are outside the state, OK? As for skill game manufacturers throughout the entire United States, I don't have the right idea on that one, OK? I just know that other jurisdictions, it's regulated by the lottery, i.e.-- like in Georgia, OK, where you do have other manufacturers similar to myself.

**LOWE:** And you are-- you manufacture the games and the software?

**MATTHEW PHILIPPSSEN:** Yes.

**LOWE:** Are you allowed to play the games in the state of Nebraska--

**MATTHEW PHILIPPSSEN:** Well, I--

**LOWE:** --since, since you kind of know the software?

**MATTHEW PHILIPPSSEN:** Well, I don't, I don't go and play the games. I'm in business to be able to sell the games to other people, all right, that put them out and whatnot. But I could play the games. And believe or not, though, I could end up winning in the game. If you put on a new game, I can make sure that it's upside down and never makes a profit.

**LOWE:** I was just wondering if you could teach me how to play.

**MATTHEW PHILIPPSSEN:** I can. I'll take you down.

**LOWE:** I make \$1,000 a month here. Senator Hughes.

**HUGHES:** Thank you, Chairman. So is it in statute what percent the games have to pay out?

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**MATTHEW PHILIPPSEN:** No, it's not in statute.

**HUGHES:** Because it would if a person's good or not, I mean--

**MATTHEW PHILIPPSEN:** Right. That's correct.

**HUGHES:** Yeah. OK. Sorry. Thank you.

**LOWE:** Thank you. Senator Hughes. Any other questions? Seeing none, thank you very much.

**HUGHES:** All right. Thank you very much, committee.

**LOWE:** Yes.

**CHARLIE BOSSELMAN:** Hello, everybody.

**LOWE:** How are you?

**CHARLIE BOSSELMAN:** Charlie Bosselman, Bosselman Enterprises from Grand Island. C-h-a-r-l-i-e B-o-s-s-e-l-m-a-n. I'm a little different operator out there. We've been actually in the business of operation of the machines for over 30 years. And we are retailers so we not only operate the machines, but we place them in our locations and we also place them in other customer locations. So we kind of have a different perspective because we, we place them and we also operate them and, and so we kind of have a unique perspective on all parts of it. I would like to say that we've had a great relationship over the years with the Department of Revenue and there's been a lot of stuff that's, that's come up that these games just materialized all of a sudden and that just hasn't happened. We've been operating them for years. And, you know, it's interesting that several of you have said that, you know, this is the first I've heard of it. And it's interesting that there's 4,000 of them out there and if there's all these problems that are happening out there-- if there's 4,000 of them out there and, and there's this giant problem with them, it's interesting that there's hardworking Nebraskans out there operating these machines in hundreds of businesses around the state of Nebraska if there's all these problems. Because there are some really good operators out there doing some really hard work out there and in businesses all around the state and they do a really good job. Are there some, some boneheads out there? Probably, yeah. But there's some really good people out there who do a really good job. So I would like to say that I think they really do a good job. And the concept that none of us are paying taxes is crazy because we pay a ton of taxes. And, you know--- and this idea

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that I keep hearing this, I hear of this and all these innuendoes of all these problems, you know, I'd just like to see a lot of these problems written down because, you know, we're in the business and we hear of all the problems. And a lot of these things I keep hearing about, none of us are hearing about them. So I think our biggest concern as a, as a, as a group is the fact that, that they want to move the supervision of our business away from the Department of Revenue and into the Gaming Commission. And as you sat here and listened to Lance Morgan talk about our industry, you could tell his intent was that our business goes away and all of us goes away too, yet you want to move our supervision over to the, the organization that would basically be in charge of our demise. So that is our biggest concern, in my opinion.

**LOWE:** OK. Thank you, Mr. Bosselman. Are there any questions? You have how many machines in your businesses?

**CHARLIE BOSSELMAN:** Boy, an exact count? I don't know. We probably have--

**LOWE:** Ballpark.

**CHARLIE BOSSELMAN:** --100, maybe.

**LOWE:** OK. What do you do to make sure that miners don't have access to the machines?

**CHARLIE BOSSELMAN:** Generally, we locate them. Most of ours are in truck stops and we locate them near the cashiers so they can keep their eye on them, put cameras on them. We put age restriction signs on them and the cashiers are instructed to, anyone under 21, to, to card them and run them off.

**LOWE:** Do you have any problems with the payouts?

**CHARLIE BOSSELMAN:** No, not, not generally. Occasionally, if a paid out is too high and we don't have the cash to cover it right then, we'll, we'll issue checks. But this idea that, that, we're not paying the taxes on them we follow all the guidelines that a casino would, would if it's over the amount. And I don't remember the exact amount. I think it's \$600. We make them fill out an I-9 on it. So that's the policy we've always operated under. So we do fill out that paperwork for, for anyone that we pay out more than that amount.

**LOWE:** OK. It was brought up about the illegal machines. And if you had an illegal machine, one of the people that you-- not under Bosselman, but under a-- or you new lease a machine out to had illegal machines in the back room. Wouldn't that hurt your profits on the machines that you have there, the legal machines?

**CHARLIE BOSSELMAN:** We don't have any. And I, and I know my guys on the routes, if they hear of them, they will tell the Department of Revenue people about them and notify them. You know-- and I can't speak for the other operators, but, you know, we've operated in other states that have similar type of stuff like this. But, you know, I don't think we would have a problem if-- you know, if it was better able to regulate this business if, if all these machines were on a central hub and the-- and it was housed by the Department of Revenue and they could watch our machines and, and we could report our income to them, I don't think we'd have a problem with that at all. I mean, we're-- we've got nothing to hide. We're reporting all of our income, our ins and outs and everything like that. If, if that's something that would make them more comfortable, I don't think we'd have a problem with that at all. And it would, it would, it would make those illegal games go away because if they're not on the hub, then they're not legal. It's very simple.

**LOWE:** Thank you very much.

**CHARLIE BOSSELMAN:** You bet.

**LOWE:** Any other questions? Seeing none, thank you.

**CHARLIE BOSSELMAN:** Yeah.

**LOWE:** Welcome.

**JOHN FOX:** Thank you, Chairman Lowe and members of the committee. My name is John Fox, F-o-x. I'm president of American Amusements and a private company speaking about today of BankShot. BankShot is a skill game designed and developed Nebraskan-- by American Amusements in 2007 to present day. In January 2008, 430 BankShot games were located in 143 Nebraska cities. BankShot was to distributors. It then entered into revenue sharing agreements with local businesses, nonprofits of which then they receive 50 percent or more. In December 2011, Nebraska Supreme Court ruled BankShot to be, quote, not gambling. In 2019, the Cash Device Act enabled the tax and regulation scheme of BankShot and other games which awarded cash prizes. Nebraska Department of Revenue

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was overseeing from the onset. Presently, we are talking about LB65 [SIC, LB685], a bill, I believe hurts. LB80-- LB865 [SIC, LB685] with all the venom and evils of protectionist legislation, aggravated as those venoms and evils are, furthered still by masquerading as property tax relief. The industries and individuals that will be hurt, rendered to second class by LB685 deserve better than to become a challenged class subordinated in favor to the privileged casino class. In, in 2020, the casino interest, by referendum, offered the people of Nebraska a deal. Give us casinos and we'll pay you a 20 percent tax. The people of Nebraska took that deal. The people of Nebraska did not vote a 20 percent tax on any business the casinos beckon. This year, the casino, casino bosses demand new taxes and regulations on amusement devices. What is it next year and where does this end? With the thousand dollars for this, thousand dollars for that, 20 percent off the tax-- taxes of LB86-- excuse me, LB685 even be contemplated if the casinos were not in the state? Casino bosses want to compare numbers and operation of the casino games that are racetrack with BankShot. This is pure poppycock. The American Amusements-- and if amusements games such as BankShot were so similar, so lucrative, so profitable to be a threat to the casino giants and in so much warrant casino-style taxation and regulation, why did the casino bosses not become BankShot distributors 15 years ago? The newfangled Racing and Gaming Commission was created to regulate gambling devices. LB685 reports amusement games found in places like Chuck E. Cheese and the Pizza Ranch should be regulated like casino games at the Racing and Gaming Commission. We've seen, we've seen the casino representatives bloviating in the media. Their precare-- their prevarications taken by some as veracity that justify the hurting people with LB685. We ask you to oppose LB685 because it's not taxation, it's desecration. Thank you.

**LOWE:** Thank you, Mr. Fox. And I saw you skipped a lot of your testimony in here, but we have your testimony, so we appreciate that.

**JOHN FOX:** I cut from five to three.

**LOWE:** Which is an achievement and you ended in the yellow so thank you. Are there any questions? Seeing none, thank you very much.

**JOHN FOX:** Thank you.

**LOWE:** And we are trying to do something right now with the temperature. Trying to bring some of the outside in. It may take a while. We're trying to get maintenance to come down.

**BRIAN KITTEN:** Wrote in my testimony good afternoon. I should say good evening now, so. My name is Brian Kitten, spelled B-r-i-a-n K-i-t-t-e-n, and I am testifying in opposition of LB8-- LB685 on behalf of Brewsky's Food and Spirits, which is the company that I own, and the Nebraska Hospitality Association. I am here to speak-- today to speak about the effects this bill will have on operators of game of skills machines. First-- which this issue really hasn't been touched upon, the bill requires the machines to be housed in a separate room accessible to only those 21 years or older. This would be extremely cost prohibitive, prohibitive for most bars and restaurants running into tens of thousands of dollars. Not only will the construction be expensive, but this requires that machines take up valuable floor, floor space for customers to eat and drink, customers and tables. Second, the bill requires raising licensing, licensing fees, taking it from \$250 to \$1,000 per, per machine overnight. This Legislature passed the licensing fees for these devices and they went into effect in January of 2021. The proposal to raise these fees seems to put the machines in the same class as slot machines, which they are not. Third, this bill institutes a new \$1,000 mechanical amusement device license for each operator. Again, the Legislature just passed the new regulations for these devices and they went into effect in January 2021. This proposal to have the new license seems to again put the machines in the same class as the slot machines, which they are not. The game of skills machines do not make the revenue the slot machines do and therefore should not be regulated like slot machines. Adding fees and regulations to games of skill would create a hardship for the bars and restaurants that could result in the operators taking the machines out completely. Many bars and restaurants use these machines to help pay their bills-- as Senator Brewer said, with pickle card income-- putting a new roof on the, on the, on the bar or restaurant. These generate income to help pay the overhead of the bills and the labor costs. If they lose those machines, it could result in the loss of these businesses altogether. As a legislative body, as a legislative body, you will need to balance fair and even competition between casinos and local bars and restaurants. I hope that you will allow the casinos to operate and pay their fair share without pushing out local businesses. If you do decide to regulate the use of slot machines, then please give me the opportunity to put slot machines in my business also. As the gentleman from War Horse stated, why doesn't he-- he doesn't want to just put-- or he could just put these machines in his casino and take out his slot machines. Well, you know why he doesn't? Because these machines don't make the money the slot machines do. He's making a lot of money, as we've seen in the, as we've seen in

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the paper. So all I ask is a fair, even playing field. And if you really want to do that, then give me slot machines because I'll take them. Thank you.

**LOWE:** Thank you, Mr. Kitten.

**BRIAN KITTEN:** I'll answer any questions that you have.

**LOWE:** Are there any questions? Seeing none--

**BRIAN KITTEN:** Thank you.

**LOWE:** --thank you.

**JOYCE FRIEDEN:** Good evening. I guess it's not afternoon anymore, is it? My name is Joyce Frieden, F-r-i-e-d-e-n, and I am co-owner of Fun Time Amusement.

**LOWE:** Can you spell your first name too, just for the--

**JOYCE FRIEDEN:** Oh, J-o-y-c-e and I'm co-owner of Fun Time Amusement, along with my husband, Greg. We own an amusement route based out of Kearney in south-central Nebraska. Our business started with one pinball machine in a fraternity house. And my husband likes to joke that it's my fault we got into this business because I said, why not? What do you have to lose? But from that, we grew one location at a time and now we have been in the business for over 30 years and serve Kearney and the surrounding small towns. We have seen so many bars and restaurants come and go in that time and so many locations change owners several times. The game business, the bar/restaurant business is not easy and it requires lots of dedication and hard work. I can sit up here and give you a speech about how much of a financial blow this would be to my business, which it would be and to be the end of it. But I want to talk to you about a couple of my locations instead. How many of you have ever been to Holstein, Nebraska? Anybody? It's home to 188 people. A few years ago, a lovely lady by the name of Bonnie took a risk and bought the only bar/restaurant there and opened the Cowtown Saloon. It has been a struggle of ups and downs. First she had to deal with COVID and now that things are finally getting back to normal, she has a deal with LB685. We put in a pool table, a jukebox and skill games and I visited with her a few days ago and asked her what she thought about this bill. She said it would be devastating. She is just grateful to have the games and to be able to use that revenue to keep the business going, especially in the slow times. Right now it is only one of three businesses in that entire town. It's



the only place you can go to eat, have a drink, hang out with friends and family, play a game of pool or listen to your favorite song on the jukebox. Are the games making her rich? Absolutely not. But it is helping to keep her town alive. And that's what I love about this business is getting to know Bonnie and playing a part in making her small business successful. But I'm not going to be able to continue to do that if LB685 passes. Next, I would like to talk about the Eagles Club in Kearney. We have done business in there for as long as I can remember. Like all clubs, it's had its share of ups and downs. And a few years ago, it almost closed for good. Then some people stepped up and vowed to turn things around. This club is a complete asset to Kearney and the veterans it serves. But I'm not going to tell you what this bill could do to them because I brought a trustee, Bryan Falk, who's going to talk after me. And this guy is doing some amazing things for that club and I'm just grateful to be a part of it. In conclusion, I am proud of the business we have built and entertainment we provide people. I treasure all the people I have met and the relationships I have made along the way. It's not been easy, but this bill would be devastating. If your motivation is tax revenue, that's not what you'll get. You'll get people just like Bonnie that won't be able to keep the doors open and many clubs like the Eagles that won't be able to stay afloat. You were elected to do what's fair and impartial and nothing about LB685 is fair and impartial. You need to make the right choice for the people of Nebraska and vote against this.

**LOWE:** Thank you very much. Are there any questions?

**JOYCE FRIEDEN:** Yes.

**LOWE:** Yes, Senator Raybould.

**RAYBOULD:** Thank you so much for coming to testify and I apologize. I was in another room introducing another bill, but I know I've seen and heard some concerns about-- and you may have already addressed this so I apologize to my colleagues because I-- we've all been here a long time. But how do you make sure or how do you monitor that children aren't playing on these machines? I'm sure that they are very attracted to them. And whose responsibility is--

**JOYCE FRIEDEN:** They do. We put all our games of skill in bars and restaurants and so they serve liquor just like you have to check their IDs to serve them liquor, it's the same thing with the machines. And all our record keeping-- and I can show it to you if you want, but

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every time I go and collect-- and Bryan can testify to that-- I show you how much money went in, how much money went out. This is what our split is. It's all reported to the government on my taxes, the same with every one of our accounts. So are there some people that are not following the rules? Absolutely. But the majority of us are following the rules.

**RAYBOULD:** OK. I guess my question was how do you keep kids from, you know, wanting-- if they go to the bar with their parents and they run off and they want to play with all these things, how-- whose responsibility is to, to provide--

**JOYCE FRIEDEN:** It is the bar's vocation that they're in and their help makes sure that-- you know, they've got cameras. They, you know, watch the machines. Usually they're really close to within eyesight of the bar so that way they can see if there's any kids messing around. They'll say, this is an adult-only machine, you cannot-- you know? And we don't put any-- I mean, we do cranes, pool tables, jukeboxes, dart boards. None of those games are by the skill games. Those are all in a separate area for the kids to play.

**RAYBOULD:** OK. Thank you.

**LOWE:** OK. Thank you, Senator Raybould. Any other questions? Thanks--

**JOYCE FRIEDEN:** OK.

**LOWE:** --for coming down.

**JOYCE FRIEDEN:** Yep.

**LOWE:** Good, good evening.

**BRYAN FALK:** Good evening. My name is Bryan Falk, B-r-y-a-n F-a-l-k. I am a trustee at the Eagles Club in Kearney, Nebraska. To the members of the General Affairs Committee, I'm a trustee of the Fort Kearney Eagles Club, Number 2722, which recently celebrated our 75th anniversary. The Fraternal Order of Eagles is an organization with a motto of people helping people. As a whole, we organize and aid and fundraisers the world over, including many here in Nebraska. Our location has raised thousands of dollars for local, state and national charities. Our club closed a few years ago due to complications due to COVID. We opened up a few months later with a huge debt. In this post-COVID environment, many people, primarily our main demographic, are a little unsure about being part of large crowds. We are slowly

seeing them come back. We currently have two BankShot machines and a pickle machine, both of which are, according to the definitions of the bill, are on there, that many use for their entertainment. We host events such as karaoke, Husker game viewing parties, potlucks and recently a Superbowl party-- had to look at the spelling of the sheet. None of these have helped us to consistently break even financially, but two things have. One is our leagues, both pool and darts, both of which pool board-- I'm sorry-- pool tables and dart boards are in this bill. No one's brought that up tonight. Just keep that in mind. They're bringing in a more consistent crowd for both kitchen and bar services. The second one is our big one. We host up to four tournaments, a month, a month for both dart and pool. We've started-- or we have started hosting these in January of this year and we can actually see a light at the end of the tunnel. We are in danger of breaking even in the next few months. In a post-COVID environment, that's amazing. LB685 will change all of that. There is a fee for these pool tables and dart boards from \$35. You're going to raise that to \$1,000. That would cost the Eagles Club more than the \$10,000 to \$14,000 we would need to pay up front just for taxes and fees for the club. We are unable to pay for this right now, so we would have to get rid of all of those equipment, which means we'd have to stop our leagues and our tournaments, which would very likely close our club. I have heard that there might be amendments to the bill to exclude the pool tables and dart boards from this legislation. I have read them. There is nothing in there. If there is, let me know where it is. Not to be pessimistic about this, but why pass a broken bill? Why risk all of us service clubs, small-town gas stations and the restaurants and bars? I don't know if this bill is pro or anti casino. That does not matter to me. My club does. This bill will kill my club and all of the other charities that we help will feel it too. Please do not pass LB685. Thank you.

**LOWE:** Thank you. Bryan, Are there any questions? The Eagles Club in Kearney.

**BRYAN FALK:** Yes, sir.

**LOWE:** You got it back on track. It's going to succeed now.

**BRYAN FALK:** As of right now, with this bill not going in place, I, I say it will, yes. And there are plenty of charities that we do right now that I, I'm worried that if this goes into play, we cannot keep the doors open.

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**LOWE:** Thank you very much.

**BRYAN FALK:** Thank you.

**LOWE:** I think that Nebraskans are hot today.

**HUGHES:** Should we bet on it? Oh, but we can't.

**LOWE:** We can't.

\_\_\_\_\_ : Not yet.

**HUGHES:** Not yet.

**LOWE:** Good evening.

**RYAN KRUSE:** Excuse me. Good evening, Senators. My name is Ryan Kruse, R-y-a-n K-r-u-s-e. I represent Nebraska Technical Services, an amusement route that has been around for nearly 40 years that employs 38 individuals, most of whom are long-term employees. In the interest of time, I will summarize my written testimony. Here in opposition due to the overwhelming financial burdens our industry and our customers would experience if LB685 were passed. A little bit about our business model: it involves the placement of amusement games, skill devices at locations and we operate based on a revenue share. Very important to understand that the profits are split with the locations, right? In addition to Eagles Clubs, as mentioned, some of our other customers are Elks Club, legion halls, VFWs, Sons of Italy, many of whom operate already as mentioned on thin margins. And they rely not just on the revenue generated by these devices, but by the foot traffic that is generated as well to their establishments. We already pay our fair share of taxes, if not more, by the way of tax stamps, licensing fees, sales tax, personal property tax, and, of course, state income tax. Based on media reports, we believe this bill is being promoted by the casino and racetrack interests to eliminate perceived competition to tax and regulate out of existence. Some of their unfounded claims include that our industry pays no taxes. Last year alone, we paid almost a quarter of \$1 million in licensing fees, \$50,000 a year in personal property tax, and in the last decade, over \$1 million in sales tax based on those purchases. This does not count payroll taxes, income taxes or taxes paid by our customers. Number two, that our industry is unregulated; nothing could be further from the truth. In 2019, LB535 required that cash devices are regularly inspected and have tax stamps that require a wealth of specific information. In just a moment, Sara from Nebraska Technical will describe the very involved

process in which it takes to place a device on location. Third, the skill devices are spreading out of control. This statement is also false. The skill devices have existed in the state for 14 years and the DOR mandates a mechanical amusement device or cash device license on every one of them. They also control the number of devices per location and locate-- or in a-- a device cannot be relocated without the consent of the DOR. And then fourth, that the-- the claims that these are gray area gambling devices. Again, false. The Supreme Court, legislation in the form of LB535 and also the DOR regulations define that these are not gambling devices. They are fundamentally different, specifically in the capacity that they are-- that the player wins every time and must exercise a level of skill, a high level of skill. In closing, the referendum regarding the casinos and gambling in the state did not suggest that the industry-- amusement industry be put out of business, which is what this bill would accomplish. The bill also does not make a fundamental distinction between the skill games and gambling. Please protect your constituents rights to choose their own form of entertainment and don't be swayed by special interests. Thank you very much and I'm happy to answer any questions.

**LOWE:** Thank you, Mr. Kruse. Are there any questions? You have had a variety of machines, whether it's jukeboxes, dartboards, pinball machines, pool tables, cranes, skee ball in the past. Are skill games-- do you make more money on skill games than you would on these other devices? Or why are these devices seemingly to pop up now, kind of everywhere instead of putting a pinball machine in place in the convenience stores or wherever else?

**RYAN KRUSE:** Well, there's, there's going to be a number of reasons for that. I will tell you, just, just a ballpark-- the number of skill games on our entire route, right, represent about one-fourth of the games in terms of pieces of equipment and generate under half of the total revenue. There is an attraction, right, any time there's, you know, something to be one of value, right? People want to play. I can just, like, you know, push machines and all that other stuff. So there is some attraction there. Plus they're-- you know, they can be relatively low maintenance. You know, pinball breaks down a lot, jukebox require a lot of work, that type of thing.

**LOWE:** Thank you. I think the last skill game I played was Pong and I didn't excel at that, so. Thank you very much.

**RYAN KRUSE:** Thank you, Senators.

**SARA KRUSE:** Good evening, Senators. My name is Sara Kruse and I'm also a partner at Nebraska Technical Services out of Omaha, Nebraska. I was going to spend a few minutes going into further detail about the, the process of the paperwork and, you know, to hopefully, hopefully illustrate how these games are regulated and that we do pay taxes on a device that requires them. For a location to become an approved location cash-- I'm sorry, have an approved licensed cash device operator, they must first submit a form to the Department of Revenue, which you will see the highlighted form. I give you all the-- for all this information from their federal ID to their state ID to every owner's Social Security number, address, any square footage. They need to display all that information to the state. Any that is not -- to the Department of Revenue. If any of that is not accurate or filled out, they will be denied and they will be sent back. They have to put square footage down. If their location is above 5,000 square feet, they need to submit paperwork, whether that is from the county assessor or of the Liquor Commission page to see what their accurate square footage is. From there, then this will be submitted to the Department of Revenue, where they will determine-- do a background check to determine if they can be an approved license operator. So that's just the first step. The next step, once they are approved, us, the distributor being NTS, has to fill out the next form I attached, which is 57-B. It has information from the op-- the operator that has just been approved along with every, every device/software that has their own cabinet serial number, their own game board serial number and pay \$250 for each game on here. And they all are approved cash devices that the Department Revenue has already-- that charitable gaming has already approved. So do that \$250 for each game and then we'll submit that to the Department of Revenue. What we're waiting for decals. When the decals then get back to us, we make sure they're applied to the appropriate games, matching the serial numbers and then we can send out for placement and installation in the locations. If a location does choose to have a game removed or if they choose to even change the software, it would be-- we have to let the state know of everything that we do. And we have a very good relationship with the Department of Revenue, both the field officers as well as the people at the state here in Lincoln as well. So we keep in constant contact with them. For any changes, any questions that may arise, we, we are-- we let them know. We don't try to hide things from them. We are very much in constant contact with them. If somebody steals a decal, we will let them know so they're aware. We'll turn the game off until we get one. So to say that, you know, we're not paying taxes or these games are not being regulated is completely false. We go-- we do go

above and beyond to make sure we have that good relationship with the Department of Revenue so that we don't get fines, we don't have games shut off. I mean, you know, for-- as far as mechanical devices like cranes and pool tables, those-- the inventory, you know, we would get that from our route management software. We, we, we end up usually buying a surplus of stickers, which we don't get refunded for. So in essence, we end up sometimes typically pay more in taxes than we are actually required to because we don't get refunded for stickers that we don't use. So in closing, I hope this paints a clearer picture that we do, do our best to follow the regulations and we absolutely pay for the tax stickers. And if there's a few questions, I'd be happy to answer them.

**LOWE:** Thank you very much. Ms. Kruse. Any questions? Senator Brewer.

**SARA KRUSE:** Yes.

**BREWER:** Thank you, Mr. Chairman. I'm trying to figure out how come the Department of Revenue didn't come in losing their mind because if we were to change this around-- let's say it was Game and Parks and somebody said, you know, we're going to take away your ability to sell 4,883 permits and those permits were \$250 a piece. I'm pretty sure Game and Parks would be losing their mind right now. And yet Department of Revenue kind of shrugged their shoulders. I got to-- I don't know. It-- you-- can you imagine why they'd want to get rid of all this? I mean, it looks to me like--

**SARA KRUSE:** I mean, I would imagine-- I do not speak for them, of course, but I would imagine that it would have to be some of the instances of people who bring up that they had heard of like illegal games and people that don't cooperate. Like, you know, Nebraska Technical Services, we do, we do, you know-- we have a good relationship, so we do our very best to be honest and forthcoming with them. I think the reason that maybe would not-- again, this is my opinion-- would want to get out of it is because of people that don't follow the regulations and the rules as we do.

**BREWER:** It would be like Game and Parks getting rid of permits because there's poachers.

**SARA KRUSE:** [INAUDIBLE]

**BREWER:** All right. Thank you.

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**LOWE:** Thank you, Senator Brewer. Are there any other questions? Seeing none, thank you very much.

**SARA KRUSE:** Thank you very much.

**TUAN MAI:** Good evening. My name is Tuan Mai, T-u-a-n M-a-i, last name, and I am the owner of four business in Lincoln: Mai's Market at 2727 N. 11th Street and Mai's Market at 1340 West O Street; IGA Marketplace, 4646 W. Huntington; Fresh N' Save, 945 S. 27th Street in Lincoln, Nebraska. These four businesses employ over 45 resident of Lincoln. My store manager, Jeff, Jeff [INAUDIBLE]. When I purchase these business, is-- were on the brink of bankruptcy. Is-- these businesses are vital to the communities they serve. Many of the residents in this community do not have transportation and must walk to get the food and supplies they need. I was able to legally install a skill game through my distributor, Funambulist Gaming, and revenue have saved my businesses. This have saved the job of my employees and this has saved the market that my customer have come to depend on. Many people say that location does have skill game will create crime. I can only speak on my own experience and it has been the opposite for me. My store have a big problem with shoplifting when I started. The police were called weekly. The reports I have at request. After I installed a skill game, my problem with shoplifting have almost completely disappeared. Feel free to share the Lincoln Police records to verify my claim. I'm here today to tell you that if this bill is passed, my business will have to close in-- within two months. Four-- forty-five employee will be out of a job and resident in the community where they are located will not have market with walking distance to get food and supply they need. Please vote no to LB685. Thank you.

**LOWE:** Thank you, Mr. Mai.

**TUAN MAI:** Yes.

**LOWE:** Thank you very much. I'll have to visit your grocery stores.

**TUAN MAI:** Thank you.

**LOWE:** The-- why do you think it is that your shoplifting was reduced because of the skill games?

**TUAN MAI:** The reason that's-- when-- before they don't have no skill game and they just wear the mask. They come in and they just grab and they, they run away. But now they have skill game and they shop and they stay and we talk to them and we know every single one played



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game, the name of them. And all the manager know everyone come to play game because all the neighbors there. We, we know them. So that's why they don't want to mess up with us and they know already. We know them already. So that's why they reduced the criminal. So that's why we don't have any more. If you showed the Lincoln Police and you don't see six months from now, we don't have any call from police any more.

**LOWE:** All right. So customer service and being friendly with your customers has won them over.

**TUAN MAI:** Yes. And also they talking about a minor. We don't have the minor go over there, play the game because the manager know every, every single one and they know it-- if someone is strange and under 21 and they come and they asking for the ID.

**LOWE:** Thank you very much. Are there any questions? Thank you very much.

**TUAN MAI:** Thank you.

**LOWE:** Welcome.

**VIRGINIA SIMS:** Hi. My name is Virginia Sims, V-i-r-g-i-n-i-a S-i-m-s, and I'm from Kearney, Nebraska. We have one convenience store. And I don't really have a written statement, but all of the testimony, I think the whole one bad apple thing applies. I understand there might be problems. We have not seen any problems. It has increased our business. It has helped us through COVID. We did stay open through COVID and we put up dividers and we have-- the majority of our employees are retired. So there are no situations-- we have had no issues with, um, minors playing the games. We sell bait. So it is by our tackle and bait machines-- or the machines or by our tackle and bait. They're not-- they're-- we do have cameras. I just think it has been a very positive thing for our business. And just like if you have a restaurant or if you farm and you're gonna do beans or corn or if you're going to sell pizza or hamburgers, it's just something that added to our business. And we are-- we've been in business 40 years and if we could sell Kewpie dolls and make money out of 'em, we'd try that. So I think it's something that you have to look at as a whole and not all the bad stories that you hear. And we are up to date on all of our tax stamps and our vendor is very upstanding and above board and legal and we report all our money so we don't have any backroom games or anything like the, the nasty stories that you've heard. So if you have any questions.

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**LOWE:** OK. Thank you very much. Are there any questions? Seeing none, you have a very nice voice.

**VIRGINIA SIMS:** Thank you.

**DAVID SHOEMAKER:** Good evening.

**LOWE:** Good evening.

**DAVID SHOEMAKER:** My name is Dave Shoemaker-- David-- D-a-v-i-d S-h-o-e-m-a-k-e-r. I have the travel center out here on West O. If you haven't been there, you need to stop. We have 80-plus employees out there. During COVID, we were declared an essential business so we had to stay open. The revenue from the games helped us. I mean, it was-- the business-- our restaurant closed down, but we kept those employees employed, you know, doing this and that. So it has been a very good asset to us. The-- we pay well over minimum wage. We do health insurance after three years. We pay for it all. And part of the revenue from these machines help us do that and stay competitive. In my opinion, you've heard everything and all the facts and figures tonight and I-- ditto. You know, it's good enough. I-- we've just had a great experience with that. And I'm here-- just LB685 is a bad deal. I do want to say, though, when somebody would hit a jackpot, they would come out to pay it. There was an I-9 issued right away so the taxes were there. You know, when you think about taxes, well, my employees pay taxes from the money we pay them. So it's, it's just one of the deals, so thank you very much and thanks for your patience this evening.

**LOWE:** Thank you, Mr. Shoemaker. You do have a very nice place.

**DAVID SHOEMAKER:** Thank you. Thank you.

**LOWE:** Are there any questions? Seeing none, thank you.

**DAVID SHOEMAKER:** Thank you.

**LOWE:** I hope it's getting cooler out there.

**HUGHES:** Cooler here.

**LOWE:** Normally, we're freezing up here.

**HUGHES:** Not today.

**LUKE TENHOFF:** Chairman Lowe, members of the committee, my name is Luke Tenhoff. I'm the director-- L-u-k-e T-e-n-h-o-f-f. I am the director of operations for S&C Vending. We are a family-owned and operated company that distributes ATMs, jukeboxes and cash device machines and we work with over 100 retail locations in Nebraska. I'm here today to speak in opposition of LB685 because having spent the last 19 years in the hospitality industry, I can personally tell you how vital revenue from amusement and cash devices are to Main Street Nebraska. LB685 accelerates the closure of small businesses already on the brink of losing what they have. In a lot of instances, this bill would close the only gathering spot in rural communities where farmers meet for coffee, ranchers for lunch, and where local retirees have a gathering spot for dinner. LB685 taxes amusement and cash devices at 20 percent of the gross revenue. To tax in such an extreme manner is just wrong and unfair to small business. Taxing these devices at the same rate as a casino creates a huge, uneven playing field for businesses just trying to survive. I've heard one state senator in particular, state, and I quote, those involved with these machines, they will be able to adjust to this. They will be able to ensure their profits are likely maintained. I take issue with this statement because that implies that amusement and cash devices can be set in a manner that retains or maintains a specific percentage of profit; one of the very reasons that skill machines are legal to use and not be adjusted like a casino slot machine can. In the end, think of the small businesses in every Nebraska county that will be negatively impacted by LB685. I believe tax relief is achieved when it helps all citizens, not just casino groups looking to rid the state of small business that stand in the way of their profit. I think of Sheila Yost, the owner of Upland Bar and Grill in Upland, Nebraska; population, 129. Sheila was able to remodel the restrooms in her businesses here because of the revenue from her cash devices. I think of Yasser Toruno Garcia at Y&N in Grand Island. Yasser was able to purchase a new ice machine for his retail store because of the revenue from his cash devices. I think Sarah Hammond [PHONETIC], the owner of Island Bar and Grill in Republican City, Nebraska; population, 134, putting in a new cooler. I also worry about a very close friend building a new hotel in central Nebraska. He no longer knows if it's feasible to add a gaming arcade to his development and to their current established hotels because of the extreme taxation involved with LB685. I could go on with these examples. I think you all get the picture of what I'm talking about though here. Thank you for your time.

**LOWE:** Thank you, Luke. Are there any questions? Yes, Senator Hughes.

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**HUGHES:** I'm going to ask the same question you asked another. So you have all kinds of games, whatever. What percent do your skill games make overall and what percent of the actual unit-- do you know what I mean? Like kind of--

**LUKE TENHOFF:** Compared with our other games--

**HUGHES:** Yeah.

**LUKE TENHOFF:** --and ATM machines?

**HUGHES:** Yep, yep.

**LUKE TENHOFF:** It probably accounts for half.

**HUGHES:** OK. Thank you.

**LUKE TENHOFF:** Yep.

**LOWE:** Thank you, Senator Hughes. Any other questions? Thank you very much for coming today.

**BRIAN HALAC:** Fellow senators, how are you?

**LOWE:** Good.

**BRIAN HALAC:** My name is Brian Halac, B-r-i-a-n H-a-l-a-c. I'm the pinball guy. I actually just do service calls and fixing people's amusement devices in their houses and stuff and try to help some of these guys when they sell their stuff off. I don't have really a whole lot to say besides what hasn't been said already besides one thing that isn't-- because to be honest with you, my business is small enough I could pack up, go get a job, I'm out. But it just irritates me that all of these people with bigger businesses and local brick-and-mortar buildings, this will shut them down because you're, you're getting revenue from a 50-- you got to give the people that you have the machines with a split. It's usually 50 or 60 percent, them getting the 60 or 50 percent on top of the tax stamps that we already got. We started off with \$35 way back in the day, early 2000s, when all this stuff was under mechanical devices and then 714 percent add on to \$250 just recently in 2021. And now we actually want to raise that another 800 percent up to \$2,000 for the cash devices. If you looked that up in between the time of those mechanical devices and right now, the tax stamps go up 5,700 percent from the 35 percent to 2,000. That makes no sense. What other business could you construct

that you could come up and say, hey, you know what, these stamps are \$35. I think I can make that work. I can, I can do the technical support. I can buy the machine. They don't cash flow. I will tell you that right now. They don't cash flow. But if they did actually cash flow, you'd still be at-- it's, like, OK, I can make this a viable business, but that's not what's happening right here. We're getting taxed out. This isn't property tax. You're taxing us out and my guess, it would probably to the casinos. But it just irritates me that this bill is up here because it's going to kill all of these people's businesses, people's livelihoods. And, and I'm 52. I'm not afraid of making a new start. There's people out there that actually was on their stuff that are, you know, wheelchair bound and stuff that what are they going to do if you close their businesses up? Where is their employees going to go? And that's pretty well all I got to say.

**LOWE:** Thank you, Mr. Halac.

**BRIAN HALAC:** Thank you.

**LOWE:** Are there any questions? You repair machines.

**BRIAN HALAC:** Yes, sir.

**LOWE:** Can you repair the skill games?

**BRIAN HALAC:** I can.

**LOWE:** Are you-- you're allowed to do that?

**BRIAN HALAC:** Yes.

**LOWE:** And do you get into the software at any--

**BRIAN HALAC:** Nobody gets into the software, sir.

**LOWE:** OK.

**BRIAN HALAC:** I used to help bug test it, but after you get through the gaming lab, it's, it's sealed. You can't do anything.

**LOWE:** OK.

**BRIAN HALAC:** And that's the one thing. I'm sorry to say that, that, that wasn't touched on a lot. Everybody has gone through the percentages and stuff. There, there is no percentages; it's how good the machine is. It can be upside down. So for these-- this grandiose

of you're at a casino hitting the button 10 million times and they're making a ton of money, these skill games, that's not the case. You get 15-second increments at best because people are still trying to figure out what's going on. So these are not casino games. They're skill games. They're amusement devices. They just happen to pay off cash, so.

**LOWE:** Thank you very much.

**BRIAN HALAC:** You bet.

**LOWE:** If-- testifiers, if you'd please move forward so we kind of can do this. And once again, at 8:00 we're going to take a break if we, if we need to. We still have seats open up here. Don't be shy.

**JIM HAWES:** My name is Jim Hawes, spelled J-i-m H-a-w-e-s. I'm the director of operations for Winner's Marketing, who manufactures and distributes skill-based games in Nebraska. We're based out of Omaha. I want to thank Chairman Lowe and the other members of the General Affairs Committee for granting me the opportunity to provide testimony today. It's been a long day for everyone and it looks like it's going to continue to be a long day so I've shortened my speech dramatically. But I'll pass it out in case you guys happened to get home early today and watch some reading material. You got it. Winner's, like members of this committee, does want appropriate oversight for the adult amusement games deployed in Nebraska. It's important to understand these amusement games are not games of chance, which is gambling. This was established by the Nebraska Supreme Court and then again by the Legislature in 2019. These amusement games require a predominance of skill with assured prize availability on every play. And to re-emphasize that, that means that they can win on every play. These are not gambling devices. I wish to emphasize that under the current laws, the people of Nebraska can be confident that games of skill are fair and not unlicensed gambling. Any rhetoric that the games are unregulated is simply false. I won't go into that because we've already gone into it ad nauseum, but it's simply false. There's a lot of disinformation and misinformation about skill-based games. LB685 is a product of such misunderstandings. It's an attempt to address problems that don't exist or misconstrues the economics of the industry in an effort to recognize tax revenues for the state. The bill is plagued by several inherent flaws. I'll go over a few of those with you, but I've cut a lot of them out because they've already been talked about and you have it in your reading material for tonight. Changing oversight from the Department of Revenue to the Racing and

Gaming Commission is one of those flaws. Such a change would discount the historical knowledge and effective oversight by the DOR for the past three years. It's important to note that all compliance protocols were only recently implemented at the beginning of this year, January 1, 2023, and such an administrative change would be unnecessarily costly to taxpayers. Further, the bill would impose the same 20 percent gaming tax paid by casinos on amusement devices-- excuse me-- the 20 percent gaming tax paid by casinos on amusement devices operated by small businesses, which don't remotely generate the same revenue. This would be a punitive, regressive tax on small businesses who skill-based game-- who count on skill-based games to keep their businesses afloat and keep Nebraskans employed. Small businesses are not casinos. They are, however, the cornerstone of our communities. So is the current law perfect? Undoubtedly, it is not. The current law can be improved to protect the consumer and increase tax revenues from skill-based games. Our company operates skill-based games in other states with thoughtful regulation and taxation systems. We know what works and we know what doesn't work. For instance, regarding this reporting issue, a central monitoring system would work. Mandating that certain locations have a certain percentage of revenue coming from something other than games works. So there are ways to make this work and we would appreciate the opportunity to work with Senator Briese and this committee to develop a system that everyone can say yes to. Our small depend-- our small businesses depend on it. Thank you.

**LOWE:** Thank you, Mr. Dawes [SIC]. Are there any questions? Senator Hughes.

**HUGHES:** Thank you, Chairman. I don't really have a question, but I appreciate you listing ideas of making it better and the option to come together and make something that works for everybody so thank you for bringing that.

**JIM HAWES:** We all want this to work.

**LOWE:** Thank you for writing out your testimony for us to read and so appreciate that.

**JIM HAWES:** Thank you.

**LOWE:** Thank you.

**JARVIS NETTLES:** Good evening.

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**LOWE:** Good evening.

**JARVIS NETTLES:** I'll try to be brief since I don't want to be redundant since you guys are hearing the same things over and over.

**LOWE:** You've been here--

**JARVIS NETTLES:** Though you're hearing the truth. You didn't-- I don't know if you heard a lot about that earlier, but let me continue. My name is Jarvis Nettles. I live in Legislative District 10. I work and I also have a small business in--

**LOWE:** Could you please spell your name?

**JARVIS NETTLES:** J-a-r-v-i-s. I don't know if you remember Jarvis Redwine that played for Nebraska.

**LOWE:** And your last name

**JARVIS NETTLES:** We're not related.

**LOWE:** Last name.

**JARVIS NETTLES:** Last name is Nettles, N-e-t-t-l-e-s.

**LOWE:** OK.

**JARVIS NETTLES:** OK. I work and I have a small business in the mechanical amusement and skill game industry. I'm speaking you today in opposition of LB685. This bill, if passed, would have far-reaching negative consequences for the state of Nebraska. The proposed tax on mechanical amusement and cash devices is excessive and will have a negative impact on business, especially small ones. This tax increase would severely cripple our industry and will hurt a variety of small businesses that depend on our revenue for-- of our games. We just can't simply adjust or absorb a 300 to 2,000 percent increase on tax stamps, fee-- and fees and on top of that, another 20 percent. Mechanical amusement and cash devices, I keep hearing this all day that we are not taxed. That is, that is false. You guys have the data. You have the amount of mechanical amusement devices and cash devices that we pay tax stamps on. We pay income taxes. We pay tax-- sales taxes on the, on the devices themselves so we definitely pay taxes. Our games may share some physical-looking similarities to the casino games, but that is where the comparison ends. The casino, the casino can set their payout percentages. We cannot. Our business models are



totally different. We pay 50 percent or more of our revenue to other Nebraska businesses. The casinos do not. We also-- in Omaha, I don't know of any operator that has received tax increment financing tax breaks. The casino has. So when they say they're paying all these taxes, are they deducting that? Probably not. Finally, I don't want to-- I'm, I'm skipping some parts here because it's been talked about and well documented. But let's talk about the transfer of power from the Department of Revenue to the State Racing and Gaming Commission, Commission. I think that's a mistake. For one, it's been with the Department of Revenue since 1969, I believe. The Department of Revenue in 2022 conducted 4,536 inspections. This is of cash devices and mechanical amusement devices. Of that 4,000, 2,899-- 2,898 were cash devices that the Department of Revenue has, has looked at. So what they're saying, there's no regulation, we're just operating in the shadows; that is false. There's one more thing I want to talk about. I'm out of time, but in this bill, it allows the seizure without warrant of mechanical devices. Do we really want to expand government and go into arcades, pinball places and seize those devices? Does that make sense? Is it, is it worth the money? Do you get a return on investment from that? I would say no. Thank you.

**LOWE:** Thank you. Thank you, Mr. Nettles. Wait, wait.

**JARVIS NETTLES:** Any questions?

**LOWE:** Are there any questions?

**JARVIS NETTLES:** I'm sorry, it's hot and I want to get out of here.

**HUGHES:** Take your jacket off.

**JARVIS NETTLES:** That's--

**LOWE:** Seeing no questions, thank you very much.

**JARVIS NETTLES:** Thank you.

**BLAIR MacDONALD:** Good evening.

**LOWE:** Good evening.

**BLAIR MacDONALD:** Chairman Lowe and members of the General Affairs Committee, my name is Blair MacDonald, spelled B-l-a-i-r M-a-c-D-o-n-a-l-d, and I appear before you as the registered lobbyist representing All American Games LLC in opposition to LB685. All

American Games LLC is a Nebraska small business based in North Bend. My client, Matt Kroeger, is a distributor of mechanical amusement devices. All, All American Games has machines placed in locations all around the state. My comments today also reflect the opposition of the Nebraska Grocery Industry Association. All American Games is opposed to LB685 as it seeks to drive mechanical amusement devices and the industry entirely out of the state. The level of taxation within the bill, including the increase in the application and license fees per machines, the addition of potential occupation taxes and the 20 percent tax on the gross operating revenue for each machine would kill this industry within the state. Being a small business in the mechanical amusement device industry in Nebraska, as you've heard, has been a challenging road over the last few years. With the passage of 29-- of LB538 in 2019, which completely overhauled the right-- the way in which the industry is regulated. Mr. Kroeger and other companies that are operating legally have all been in close contact with the charitable gaming division at the Department of Revenue, not only to comply with the new regulations, which were only fully implemented at the beginning of January of this year. But All American and others in the industry want to continue to work with the Department of Revenue and opposes the, the moving of the oversight of skill games to the Racing and Gaming Commission. These machines are not games-- these machines and games are not gambling. The charitable gaming division is already doing the appropriate oversight, as you heard from Director Rocky earlier, in enforcement of mechanical amusement devices, as well as other forms of entertainment like keno, bingo, the lottery and pickle cards. Many of these locations have co-located keno and pickle cards or bingo, as well as mechanical engagement devices so the department is already enforcing the law and investigating these locations. These small businesses, nonprofit organizations, fraternal organizations, grocery stores, convenience stores, bars and restaurants have all come to rely on this revenue, as you have heard earlier. Skipping ahead, there are many things that those companies, locations and businesses within the industry can agree upon to move the industry forward in coordinating with the Department of Revenue, as you heard from the gentleman from Winner's Marketing. Many of those discussions have come up with the introduction of this bill. This bill in itself is not going to move the industry forward obviously. We'd ask that this committee continue to allow the industry to work with the Department of Revenue and give us all time to see how the full effects of the implementation of the new regulations go. And for all these reasons, All American Games and the Nebraska Grocery Industry

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Association are opposed to LB685 and ask that you please keep this bill in committee.

**LOWE:** Thank you, Ms. MacDonald. Are there any questions? Three minutes is a short time, isn't it?

**BLAIR MacDONALD:** I'm a fast talker, obviously.

**LOWE:** All right. Thank you very much.

**BLAIR MacDONALD:** Thanks.

**ERIC REICHERT:** Hello. My name is Eric Reichert. I will not talk that fast or that, that long, but I did feel-- I made the trip from Scottsbluff today.

**LORETTA FAIRCHILD:** Please spell your name.

**ERIC REICHERT:** Yep. Eric Reichert, E-r-i-c R-e-i-c-h-e-r-t. So I have bullet points to make quick. I think a lot of the conversation early on was kind of getting away from the intent of the bill. With what we're trying to do here, we're not-- we have no problem being regulated. That's-- we're fine paying our taxes. There's no issues there. But switching it from Department of Revenue to the Gaming Commission, what, what's the point there? I mean, you're-- they've been taking care of it for-- since the '60s. Why change that? When I was reading the bill, there is a-- the Gaming Commission can take the employees from the Department of Revenue because-- so they can stop it. Well, then all you're doing is taking people from the Department of Revenue and you're going to have to backfill all these offices. Why not keep it all in the same-- the way it's been working? Let everybody pay their taxes the way they're going to. Everybody-- I mean, I put a fox in the hen house and just ruffle everything up. It's a lot simpler. It's less government at that point just to continue, continue the way it is. As far as tax-- property tax relief, I own a lot of property. I know what I make on the gaming. It, it-- what I make would not cover what I spend on property taxes. So then I'm going to divvy that up between everybody else in the state. That is a drop in the bucket. If you're wanting tax relief, you, you better look at a bigger, bigger business. I mean, it is a big business, but as far as property tax goes, you're not gonna be able to cover what-- at least what I know I make it on, on the machines I have in my businesses. You're not going to be able to, to fund it the way you're wanting to. Thank you.

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**LOWE:** Thank you, Mr. Reichert. Are there any questions? Senator Brewer.

**BREWER:** Thank you, Mr. Chairman. You remember earlier, I asked the question, what bad thing is happening that's forcing us to do this? And what it came back was is well, this gives us the ability to have penalties. But you're telling me there's already the ability to penalize you if you're not doing what you're supposed to do. Is that right? Correct. They're saying about reporting, but you guys are reporting, aren't you?

**ERIC REICHERT:** We are having to report.

**BREWER:** And again, he said he wanted to make more money, but he's-- to Department of Revenue. You can give them that, so. All right, well, I, I just thought-- I didn't think that was an unreasonable question. What bad thing is happening that makes us change things?

**ERIC REICHERT:** Really, the-- I mean, we're having to report it. We're-- like, just-- the government is seeing what I'm making on this. They're coming-- the Department of Revenue is coming out and making sure we have our stickers on. They're making sure we're running our business between the tobacco, the lottery, Liquor whatever-- Commission, but they're coming in and one person is coming in and looking at multiple different things. Now, to switch this over, you're going to have a whole nother person to come in and drive-- I'm in Scottsbluff. I bet you guys don't drive to Scottsbluff very often. Like, it's, it's a jog. I know you do. It's a jog. Like, it's just-- to, to come out there to look at the, the machines, I-- to only look at the machines I have in my business? Like, that's ridiculous. That's a complete waste of money. Let one person come out, drive out to our end of the state and look-- let them look at multiple things. Let them come to every business that we're in. You know, when they're in a community, let them stay in community, do their business, go to the next one and then be done instead of just having two of them just chase each other around the state.

**BREWER:** Thank you.

**LOWE:** Thank you, Senator Brewer. Any other questions? And because you may have got the mileage award today, I have to ask you one more question just to make it worth your time.

**ERIC REICHERT:** OK.

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**LOWE:** Are these skill games hooked up to the Internet at all? Because it was brought up before that maybe they ought to be controlled on a central hub.

**ERIC REICHERT:** I am the wrong person to ask that question. I, I own the businesses and then I have other partners that come in and run the machines. So I just-- I own the facility and the business that it's in. And I know I run one Cat 6 cable for them, but I don't know where that Cat 6 goes--

**LOWE:** OK.

**ERIC REICHERT:** --so

\_\_\_\_\_ : I do.

**ERIC REICHERT:** OK. He can answer--

**LOWE:** Pay more attention to your business. No, thank you very much. Thank you.

**ERIC REICHERT:** Thank you.

**LISA WEBORG:** My name is Lisa Weborg, L-i-s-a W-e-b-o-r-g. I'm from Bridgeport, Nebraska, but I operate businesses in Bridgeport, Nebraska, and Gering. I have two restaurants and the event center and a hotel. I'm also 60 and sometimes I forget what I want to say. But I think that the thing that-- I've been sitting here since 1:30 this, this afternoon and I know that you guys have been sitting here even longer than we have. I'm listening today-- and I can't remember the senator who first spoke. He was talking about "taxizing" things, you know, the \$250. And then all of a sudden, it was \$50, then it was \$1,000. Then at one point, he mentioned the \$5,000. You know, how can we even support a bill that-- if we don't know what it's going to cost upfront? That was-- you know, why are we even discussing it? It's-- I mean, all the ducks should be in a row before it's either approved or-- at this point, it should be dis-- disproved, in my opinion. I employ approximately 140 employees in our businesses. I'm telling you right now with the, the prices of what we pay for people's wages at the Steel Grill, we were-- over 55 percent of our income was in wages, 43 percent of it was cost of goods. If our taxes keep going up, we're not going to survive. And I have a very lucrative business that I think you've probably been there, haven't you?

**HARDIN:** I hate to have to answer that.

**LISA WEBORG:** OK, that-- yeah. We have a very good business in, in Gering and in Bridgeport as well. But with the taxes that we're talking about, if they continue to increase, we might be able to handle a 6 percent. But when we're talking 20 percent, that's going to hit us hard. And that's-- that goes all the way around, you know, whether-- my husband's in the farming and the cattle business or I'm in hospitality and I've been in hospitality business since I was 15. So I know how to run a business, but it makes it pretty hard when, like I said, wages are this way, your cost of goods are here and now we're at taxes. Just-- I think also when I'm talking about the game-- oh, I'm on yellow. I'm hurrying, OK. Yellow. Let's, let's talk about, like, jukeboxes. We already pay ASCAP. We pay BMI. You know, those two licensing fees right there is over \$4,000 a year. We-- the, the gaming-- you know, I have the Steel Grill. What I make with three machines is basically entertainment for my guests. We probably pay out more than we take in. That's not the purpose that we have them there, but it is the purpose for, for guests to be able to enjoy them. And if that keeps bringing people in the doors, that's what we need to survive. OK, thank you.

**LOWE:** Thank you very much.

**LISA WEBORG:** Any questions?

**LOWE:** I may have it wrong. You may be further than the other fellow.

**LISA WEBORG:** I think-- well, we came up together. Does that make a point?

**LOWE:** Are there any questions? Seeing none--

**JOE HINDERER:** Good evening. My name is Joe. Hinderer, J-o-e H-i-n-d-e-r-e-r. I work for Central Distributing Company. I'm the director of sales and marketing for a company that's been based in Nebraska since 1933. I've been in the business myself for 31 years and there's a couple points I want to jump around with. I'm sorry. I've read the bill. I've read the amendment to the bill and I think it's very hard to define. It's very confusing in the bill because there's, there's games like Skee-Ball, football, basketball, games where you win tickets and you play in a Chuck E. Cheese or a-- The MARK or other facilities where kids are playing. And originally it was in the bill and now in the amendment, it seems to be unclearly defined if it's out of the bill or not. So I think that's something that, you know, certainly needs to be addressed. I think a lot of people in the room

were modest. A lot of them are my customers. They mentioned their businesses where they do business would struggle. A lot of these guys, they haven't said they would struggle as well. They all have employees. They all buy vehicles, pay taxes, support the state in many ways and it's going to hurt every single one of them as well. As far as the property tax relief, I think it's-- that's a pipe dream. I mean, you can pick any business and say, hey, let's take part of your profit and we're going to put it towards taxes or property tax relief. You can do it to anybody. It, it can be Wal-Mart. It can be any business whatsoever. We're selling entertainment. They're selling something tangible, take, take their profit away. All you're doing is hurting the end user because we all-- I mean, none of us are-- none of us get, you know, rich doing this, so. Anyways, I have customers in the room that told me when they've been in my showroom that they're not going to buy from me until they figure out what's going on with this bill. It's actually hurting my business today as this bill is being discussed, so. And I think there's a huge thing that hasn't-- it's been talked about a lot, but you have games of skill, which are proven skill, and casino games. And why a casino would be concerned with a game of skill, that's, that's complete nonsense.

**LOWE:** All right.

**JOE HINDERER:** Thank you.

**LOWE:** Thank you. I appreciate that. Any questions? Seeing none, thank you for coming tonight.

**JOE HINDERER:** Thank you.

**LOWE:** Can I have a show of hands of how many more testifiers we have? Just one?

\_\_\_\_\_ : Best for last.

**HUGHES:** What?

**LOWE:** I'm not trying to encourage anybody.

**TODD CARPENTER:** How we doing? Todd Carpenter, T-o-d-d C-a-r-p-e-n-t-e-r. You know, I've been sitting here all day. I kind of feel for you guys up here. This bill is bad. I don't know, you know, how, how it even got to here. You know, Senator Briese, he puts it all together and says, hey, we're going to mark it down as property tax relief. And, you know, I, I know Senator Briese's area. In fact, I

talked to the lady in his hometown that runs the VFW. She says if the thing passes, you know, we're done, seriously. She goes, we don't, we don't make 20 percent on gross. You know, all these taxes going up from \$250 to \$1,000 and then the jukebox going from \$35 to \$1,000. It's, like, wow, we're just throwing numbers everywhere and the people can't sustain it. They won't. It won't, it-- and, you know, you asked for the problem. I'm sorry, I thought revenue had this under control. You know, this is six weeks into the-- this year that we finally got out of rules and regulations. All right, this is-- but there's no gray area no more. It's black or white. It's either these games are legal or they're illegal and they have the enforcement to do it. They, they've had-- they have done it, you know? And there are fines and there are penalties. And, and I just don't know, you know, like, what-- how did we get here? Well, I, I'm sure that, you know, there was a special interest that says, you know what, we, we need to-- we want to eliminate our competition. You know, you can't tax an industry out of existence to help pay property taxes. It just doesn't work. You know, there's-- can't just go in for a power grab and go, hey, is, is there problems? Do we-- how do we, how do we work this? Well, I don't know. We kind of get a committee together and see-- all right, do you need more money for enforcement? All right, well, we're going to see how-- what we can do to, to, you know, raise money to raise funds to-- whether or not to even raise the tax stickers somewant to pay for enforcement. You know, we're willing to work. It just whether or not, you know-- there's nobody here that says this bill is good. Nobody. There's no-- I guarantee you got thousands of phone calls and not one person said, you know what, this is a dang good bill. I hope it passes. Nobody. It's that bad. And we're-- and I'm asking the council, as a Nebraskan, as a, as a, as a person of business and everybody else in the room that does this, we're not in support of this bill. It, it needs to be squashed and we need to work together. If it is something where they need to raise money for revenue that-- for enforcement or to, to-- for better regulation or whatever they need, you know, we're willing to work with them on, on that, so. But there are seriously a lot of people, including myself, that if this bill does go through, we don't know that, that-- there's so much uncertainty going on that-- and there are and they're all true, what everybody said today in this, this meeting, that it will hurt and it hurts.

**LOWE:** Thank you very much. Are there any questions? So you said you're willing to work with Senator Briese to make it a better bill?

**TODD CARPENTER:** Oh, absolutely. We all are. You know, it was, it was-- they come out and have these, these big numbers and you're going, well



I, I-- you know, they're going out 20 percent of gross. I go, these games don't even do 20 percent of gross. I go, we're going to lose money plus lose money because we got to pay in the-- for taxes. They're just-- once they understand how-- and I thought we were on the right page because revenue has come in and cleaned this up on an industry that's never existed and finally got everything lined up and ready. And the-- we're, we're-- we come out of rules and regs, everything's January 1. It's, it's-- there's no more, you know, provisional games, you know, ones that are still needed to be tested or anything. Everything that's out is, you know, within the-- and, and another thing is to keep it in red revenue. I'm pro revenue for once in my life, you know, is to go-- is to say, hey, you know, they're working on the-- on all the logistics because they are still going in there and they're checking the, the cigarettes for tax stamps. They're checking the card machines. They're checking-- and they're going in there and they can just hit-- same thing with the, the jukeboxes and the pool tables and the cranes and, and all the other kids games and adult games. But I don't know, as I said, I just think that it just-- it-- we just need to squash this bill and, and maybe put together something else that would help revenue if that's what they're asking for.

**LOWE:** All right, thank you. Are there any questions, further questions? Seeing none, are there any more opponents? I see Director Rockey is still here. Would you like to come up and answer any questions, if there are any, from the committee members? We've had a full day of testimony and you've been very patient in being here. And I called you up at the beginning when normally you testify in the end so you can come up with any information. What have you heard today that might clarify things or might work?

**BRIAN ROCKEY:** Well, first of all, thank you for allowing me to go first. And I thought I should stay because our customers are here so it's helpful. What we've heard, I think, you know, the impact of the devices on the individual businesses. We've had our own projections of what an average device would take in during a week or a year and that's, you know, about \$1,000 a week per device. But in some cases, it's, it's more; in other cases, it's certainly less. So I think it-- what to me that reinforces is the need for numerical reporting. There was questions of the operators, of the distributors, are-- don't you have reports on your devices? Yes, they do because it's a computer, but it would be useful to be able to establish some sort of reporting system, whether it's quarterly or, you know, every six months or annually, whatever-- probably quarterly-- to just get that

verification in. Whatever the rate is or whatever the tax may be, I think from a-- from an accountability standpoint, that would be helpful. That's one of the things that I heard. The devices are-- and it's-- a question was asked about are some of the devices connected to the Internet? Some are, some are not, I believe. I can tell you that the small community that we visited a month or so ago and, and left with their four devices, they were all connected to a modem. And I-- and from talking to the distributor that had those devices, he was able to see what those devices did in real time. So I think that's certainly doable. We have the ability to take electronic filings from the different licensees, whether it's charitable gaming-- or actually the, the one for cash devices is in the works, but in terms of electronic payment, electronic paperwork can be done now. Sorry, the light.

**LOWE:** No, it's OK. Was that it?

**BRIAN ROCKEY:** I think just the specifics of the types of, of reporting requirements and there were discussion about whether or not the devices should be in an isolated area. I know the U-Stops here in Lincoln, for example, have, have created an isolated area, but other locations, they have them, you know, up front. Mr. Mai's store on West O Street is just down the street from our office and their devices are up front. So I think that's, you know, open to interpretation. I think the operators would probably have the best sense there. We saw the photos, of course, of the children playing the game. You know, I've seen kids playing pickle cards. And, and I know from the lottery, we always make a point, especially during the holidays, these are not for kids. These are adult gifts. So, you know, there's a, there's a certain amount of control that can only go so far and then the end user has to be responsible. But that would be something that could be useful for enforcement purposes, I guess, beyond the, the \$1,000 per day for-- fine or whatever the committee decides or Legislature decides is appropriate on devices.

**LOWE:** All right.

**BRIAN ROCKEY:** Thank you.

**LOWE:** Thank you very much.

**BRIAN ROCKEY:** You bet.

**LOWE:** Are there any questions? Seeing none, thank you again.

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**BRIAN ROCKEY:** Thank you so much.

**LOWE:** Senator Briese, thank you for staying.

**BRIESE:** Waive closing?

**LOWE:** Well, if you buy me a beer.

**BRIESE:** I really want to thank everyone for coming today. And it's important that we hear from the stakeholders and the folks who have an interest in this. And, you know, I'm glad you showed up and that was good that you did. But there was an implication earlier that-- a suggestion that, you know, this was brought on behalf of the casino industry or brought on behalf of special interests. No, this, for me, was brought on behalf of Nebraska taxpayers still clamoring for property tax relief. You know, I've done this. We fought these battles for six, seven years, Senator Brewer, Senator Lowe. And, you know, some of you have been here in less than that. But, you know, we continue to fight those battles. And again, really appreciate the size of the crowd. It kind of reminds me of the size of the crowds that I've gotten on my efforts to expand the sales tax base to fund property tax relief. That, that can tend to fill up a room as well. And as I said earlier, you know, I think we do need to back off on the provision to require an enclosed area for this. I don't particularly care about the location or the isolation of these machines and I don't really care about a fee increase. If we don't need a fee increase to help with enforcement, I don't, I don't want to raise fees on anyone. And personally, I'm not focused on the illegal machines. I'm not focused on sending this thing to the Racing and Gaming Commission. If you want to leave it in the Department of Revenue, I'm OK with that. What I am focused on is the potential for property tax relief. You know, I can sit here for a half-hour talking about the property tax crisis facing our state and why we have to-- why property tax relief and reform is a multipronged effort and we have to approach any avenue that can help us address that situation. Voters told us they want casino-- casinos at racetracks and they want to have those machines taxed at 20 percent, with 70 percent of that going to the Property Tax Credit Fund. What we're talking about here today is a small industry that many perceive as very similar to the casino industry relative to these machines. And so really the question before the committee is should this industry help with addressing the property tax crisis as casinos do? And if so, how do we best protect the players in this industry so we don't do serious damage there? And again, I think we do that-- if we're going to go down this road, we do that by avoiding the

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fee increases. We possibly look at a lower tax rate than the 20 percent. I think one of the testifiers mentioned a percentage that they could live with. Maybe that's something we should consider. And again, make this-- try not to make this onerous on the players in the industry, but also effectuate some measure of property tax relief. And with that, I'd be happy to answer any questions.

**LOWE:** Thank you. Senator Briese. You have been a champion on, on gambling and everything else that we've encountered in the last several years, so-- and, and also property tax relief so thank you very much.

**BRIESE:** Thank you.

**LOWE:** Are there any questions for Senator Briese? Seeing none--

**BRIESE:** Well, I appreciate everyone staying late tonight and time to get out of here.

**LOWE:** All right.

**BRIESE:** You bet. Thank you.

**LOWE:** Thank you very much. Thank you all for coming and attending our committee hearing.