

Transcript Prepared by Clerk of the Legislature Transcribers Office  
General Affairs Committee January 22, 2024  
Rough Draft

**LOWE:** [RECORDER MALFUNCTION] General Affairs Committee. My name is John Lowe and I represent District 37. I'm the Chair of this committee, and I will be conducting today's hearing. Well, part of it anyway.

**HUGHES:** The first half.

**LOWE:** Today we'll be hearing of four bills and one amendment. If you wish to testify in person on any of the matters before us, we ask you to fill out one of the green sheets of paper. They are located on the tables on either side of the room. If you're here and do not wish to testify, but you wish to state your support or opposition for any of the matters before us, we ask you to fill out the sign-in sheet. If you do testify, please hand your sheet to the committee clerk. Andrew, over here, if-- as you come on. Please begin your testimony by stating and spelling your full name for the record, which is very important for our transcribers. And please do it semi-slowly so they can get it right. The bill's introducer will be given an opportunity to open. Then we will hear the proponents, then opponents, and then the neutral testimony for each bill. We ask that you listen very carefully to try not to be repetitive. We do use the light system in the General Affairs Committee. I assume everybody here's ready to testify today. You'll be afforded three minutes to testify. And that's going to be our standard going out through this year is three minutes. It will-- if you have more, we might ask you to finish up later. The green light signifies your start. When the light changes to yellow, you have one minute remaining to conclude your remarks. When the red light comes on, your time has expired and we will open up the committee to any questions that they may have for you. At this time, I'd like to encourage everyone to turn off or silence their cellphones or electronic devices. So you may see members referencing their iPads, iPhones or other electronic devices. I can assure you they're just researching the matters before us. If you have a prepared statement or an exhibit or anything you would like us to distribute to the committee members, we ask that you provide ten copies to the committee clerk. If you don't have ten copies, don't worry. Our guys over there, our pages will make the copies for you. We'll proceed with introduction of the members, starting at my right with Senator Cavanaugh.

**J. CAVANAUGH:** John Cavanaugh. District 9, Midtown Omaha.

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**DAY:** Good afternoon. I'm Senator Jen Day representing Legislative District 49, in Sarpy County.

**HUGHES:** I'm Jana Hughes, District 24, Seward, York, Polk and a little bit of Butler County.

**HOLDCROFT:** Rick Holdcroft, District 36, West and South Sarpy County.

**RAYBOULD:** Jane Raybould, Lincoln, Nebraska, representing the, the heart of the city of Lincoln.

**LOWE:** To my right is Laurie Holman, our RA for the committee. And to my left is our committee clerk, Andrew Shelburn. Our page today is Collin Bonnie. And what is your major?

**COLLIN BONNIE:** Criminal justice.

**LOWE:** Criminal justice. Very good. All right. With that, we have Senator Holdcroft and LB981, and we have papers coming at you. Senator Holdcroft, welcome to the General Affairs.

**HOLDCROFT:** Thank you, Chairman Lowe, and members of the General Affairs Committee. For the record, my name is Senator Rick Holdcroft, spelled R-i-c-k H-o-l-d-c-r-o-f-t. I represent Legislative District 36, which includes western and southern Sarpy County. Today I am introducing LB981 on behalf of the Nebraska Department of Revenue Charitable Gaming Division. This bill is intended to help simplify compliance with requirements for many charitable gaming, lottery, and raffle applicants. It is important to note that charitable gaming licensees are often volunteers. The nonprofit organizations and their volunteers have expressed that some reporting requirements can be burdensome and complicate their fundraising activities. This is even more difficult for volunteers. Currently, the 2% tax filing thresholds for lotteries and raffles are \$1,000 and \$5,000, respectively, and require quarterly payments, and an annual filing. LB981 would raise the filing threshold to \$15,000 in gross proceeds for both lotteries and raffles, saving the smaller nonprofit organizations time and money, where many, many, or perhaps all of their fundraising efforts do not reach that amount. The bottom line is that it will save these taxpaying licensees both time and money. Last fiscal year, there were 439 organizations licensed to conduct lotteries and raffles in 73 of the 93 Nebraska counties. There were 101 organizations who who did not meet the filing threshold, and a third of them would be relieved from filing by this change through raising the threshold. Chairman Lowe and

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members of the General Affairs Committee, thank you for your consideration of LB981. A representative from the Charitable Gaming Division is here to provide additional information about LB981 and answer any technical questions you may have. Thank you.

**LOWE:** Thank you, Senator Holdcroft. Are there any questions for Senator Holdcroft? Seeing none, will you be waiting around?

**HOLDCROFT:** I'll be right here.

**LOWE:** All right. Let's have the first proponent.

**BRIAN ROCKEY:** Good afternoon, Chairman Lowe, members of the General Affairs Committee. I'm Brian Rockey, B-r-i-n-- B-r-i-a-n R-o-c-k-e-y and I serve as the director of the Nebraska Lottery and Charitable Gaming Division of the Nebraska Department of Revenue. We are grateful to Senator Holdcroft for his support of this proposal and for your interest in the subject. I'm testifying to answer any questions you might have. The senator covered some of the basic numbers. I would like to just, add a little bit of contextual information about the dollars involved. The tax on lottery raffles is 2%, and that's for lottery raffles with proceeds in excess of \$1,000 and for-- 2% for raffles, lottery raffles, with proceeds in excess of \$5,000. As the senator mentioned, there's a quarterly payment and annual filing required. We thought it would be prudent to index the rates for inflation, which was where we arrived at the \$15,000 amount. The \$1,000, \$1000 and \$5,000 figures were set in 1984. In last fiscal year, the gross handle of lottery raffle was \$9,641,787. It generated \$192,835 in the 2% gaming tax. Licensees handing-- handling up to and including \$15,000 in gross accounted for \$1,344,837 of that total, 13.9%, and the tax on their gross handle was just under \$27,000. The senator covered how many organizations there are that, that fall into this category. They're found in 73 of the state's 93 counties, so they're spread throughout. And 154 of them would be relieved from filing by this change in raising the threshold. 255, or 58% of the 439 licensees, would, would be relieved. I'd be happy to answer questions. I see the testimony got distributed.

**LOWE:** Director Rockey, thank you. Are there any questions? Yes. Senator Raybould.

**RAYBOULD:** Thank you, Director Rockey. So the question I have with the, the charities, nonprofits, they would still be required to make quarterly payments and an annual filing. That doesn't change.

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**BRIAN ROCKEY:** If they're subject to pay the tax, yes. So anything-- the organizations that take in \$15,000 or more, they would continue as as they are now. For the organizations that don't have a \$15,000 gross, they would actually not have to file at all.

**RAYBOULD:** At all?

**BRIAN ROCKEY:** At all. Right. And there is a-- there is a license that has to be obtained through the-- through the division. It would basically-- and it's it's kind of this way now, it's really kind of the honor system, the organizations that want to do a lottery raffle, have to be aware of the law that requires that you have a nonprofit status and you have utilization of fund members and certain things that you have to do, and rates to-- the tax rate to pay, and the filing. And most of the organizations are aware of that, or they'll call if they have a question that's, you know, it's fairly common knowledge that, that lottery raffles are regulated. So if they're not already on our list, they'll contact us and we'll answer questions. Or we have staff that sometimes will encounter activities that are not on the list as a, as a licensed raffle. And in this case, what we would do is, if they're not, if they wouldn't meet the \$15,000 threshold, we would certainly ensure that they are at least an in-state nonprofit organization, because that's really the, the, crux of it.

**LOWE:** Yes.

**RAYBOULD:** So when they file for the license to to hold a raffle or lottery, what is that filing fee and--

**BRIAN ROCKEY:** And I believe it's \$30.

**RAYBOULD:** \$30. OK. Thank you.

**BRIAN ROCKEY:** And one question, that you might have is how do they know what they're going to be taking in for gross. It really depends on the number of tickets that they plan to sell and the price of the tickets.

**RAYBOULD:** So can they file afterwards?

**BRIAN ROCKEY:** If-- yes, if they were to--

**RAYBOULD:** Exceed?

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**BRIAN ROCKEY:** --activities were to exceed that, yeah, they could do that.

**RAYBOULD:** And then that becomes just an annual? And any-- the tax that they pay can still be paid out-- paid to state quarterly.

**BRIAN ROCKEY:** Right.

**RAYBOULD:** OK.

**BRIAN ROCKEY:** And then they would have to, you know, basically renew again. So if they, if they-- let's say they started off and had a raffle and it was just very popular. And so they, they created more tickets and extended the drawing time frame or some-- you know, something that, that en-- engendered an increase in the gross, then then they would be able to come back to the state and to the department and make that filing. It wouldn't necessarily renew for the next year, so if they-- hopefully the guidance that they got from the experience would, would suggest to them that maybe they should go ahead and get licenses as a, as a nonprofit.

**RAYBOULD:** So the most important thing is for that organization to apply for the fee and the license to, to hold that. And then how will you communicate this change in, I guess, law, should it pass out of our committee and then the Legislature?

**BRIAN ROCKEY:** Well, we we have a obviously a list of, of organizations that conduct lottery raffles with us. So we would notify them in that fashion. The Department of Revenue also has, for lack of a better term on my part, a listserve that can send out information. It would also go on our website. And we do communicate with the Nebraska Association of County Officials and the municipalities, as well as the veterans service organizations that, you know, we know have interest in that. So we would get the word out.

**RAYBOULD:** OK. Thank you.

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

**J. CAVANAUGH:** Thank you, Chairman. And thank you for being here, Mister-- Director Rockey. Are meat wheels covered by this?

**RAYBOULD:** What did you call-- what did you say?

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**BRIAN ROCKEY:** Meat wheels. Meat raffles?

**J. CAVANAUGH:** Yeah, a meat raffle. You don't have a meat wheel? You're not allowed to ask me questions, but-- [LAUGHTER] yeah, a raffle--

**BRIAN ROCKEY:** Well, they are--

**J. CAVANAUGH:** --where they sell a ticket and they raffle off meat on the wheel.

**BRIAN ROCKEY:** They're, they're, they're not permitted. So we actually had a conversation about that before I came over. Is there-- meat raffles are really not permitted.

**J. CAVANAUGH:** There's-- they happen a lot in my district.

**BRIAN ROCKEY:** Yeah, they're pretty popular.

**J. CAVANAUGH:** Okay, we're not going to talk about it anymore.

**BRIAN ROCKEY:** No, it's-- well and, and--

**RAYBOULD:** Now it's on our record.

**BRIAN ROCKEY:** The difference between a lottery and a raffle is really what the prize is. A lottery is going to be a cash prize, and the raffle is going to be primarily merchandise. And I believe the value of the merchandise price has to represent I th-- I'm sorry it escapes me. You see there's 65 or 80% of the total cash taken in has to be in merchandise. But there are things like that. And just an anecdote, if I may. I was at a conference in Wisconsin, an industry conference in, in November, and part of the entertainment for the participants was a meat raffle. And they did-- they did some meat, but they did other merchandise. But they also noted that meat raffles are illegal in Wisconsin anyway. So.

**J. CAVANAUGH:** I wouldn't want to live in Wisconsin. Thank you.

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

**BRIAN ROCKEY:** Thank you.

**LOWE:** Other proponents. Are there other proponents for LB981? Going once. Opponents for LB981? Are there any in the neutral for LB981? Senator Holdcroft? Fine. Senator Holdcroft waives. That ends LB-- our

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discussion for LB981. There was one promoted-- proponent's submission online, and no opponents and zero in the neutral. We now go to LB960, and Senator Jacobson. Welcome.

**JACOBSON:** Thank you. Well, good afternoon, Chairman Lowe and members of the General Affairs Committee. My name is Mike Jacobson, spelled M-i-k-e J-a-c-o-b-s-o-n. I represent District 42. That includes Hooker, Thomas, McPherson, Logan, Lincoln, and parts of Perkins County. Current state of-- in the current state of Nebraska, competitive combat sports doesn't allow for proper seasonal development. Both kickboxing and bareknuckle boxing require a participant, regardless of ability, to turn professional on their very first attempt. This presents a steep barrier to entry that defers many from making an attempt. Those that do are also relegated to turning professional in all combat sports. So by trying kickboxing, that individual now has to compete as a professional in MMA and boxing. Professional combat sports shouldn't be entered into lightly. This bill also introduces a new sport, bareknuckle MMA. This is a blend of MMA and bareknuckle boxing, both of which are currently legal in Nebraska. Most sports have a season, and at the end of that season, you get to start fresh with a brand new record. That is not the case with combat sports. By adding variations in rule sets, apparel, and levels, we give athletes an opportunity at a fresh start and an ability to grow as a combat athlete. It is for those reasons that we are introducing LB960 to allow the growth of athletes in a safe, more orderly environment for participants to learn the sport at an appropriate level, with proper oversight by the Nebraska Athletic Commissioner, and provide statutory authority for the new professional sport of bareknuckle MMA. And with that, I would answer any questions. I might also note that there is a \$6,000 fiscal note. So a very modest fiscal note on the bill.

**LOWE:** Thank you, Senator Jacobson. Senator Raybould has a question.

**RAYBOULD:** Yes. Thank you. So if you have declared that you're a professional martial arts kickboxer, you cannot participate at that lower level that you're proposing.

**JACOBSON:** That would be my understanding, that professionals com-- compete at the professional level. The problem with this is if somebody wants to try this the first time, there is no amateur status, so you're required to become a professional. Then by becoming a professional in this sport, you're required to be a professional in all other MMA sports. So that creates a real problem for those who want to enter this to begin with.

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**RAYBOULD:** So when-- When does one declare themselves to be a professional?

**JACOBSON:** I think when they decide they want to compete at the professional level.

**RAYBOULD:** OK.

**LOWE:** Senator Hughes.

**HUGHES:** Thanks for coming, Senator Jacobson.

**JACOBSON:** I almost dread to hear this question, but go ahead.

**HUGHES:** You should be. So like, you know, I'm all about wellness initiatives. What do-- what do we think-- Do you think we could have a commission, we could set up a cage in the rotunda, and if we've got, like, two senators that are disagreeing, just throw them in there? And now that they can be amateurs, that would work out pretty good?

**JACOBSON:** I thought you might raise this question. In fact, I anticipated this very question from you. So I figured we'd do it right after the Jazzercise competition for the day that you had promised us.

**HUGHES:** All right. Thank you.

**LOWE:** Thank you, Senator Hughes. Any other questions?

**JACOBSON:** I do have a proponent that will be speaking after me that can answer any more specific questions, but I think it gives you a pretty good sense of the-- of the overview. And I do need other-- I'll hang around here to see if there any opponents. But I do need to head to another committee hearing.

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

**JACOBSON:** Thank you.

**JACOBSON:** Will anybody be closing? Do you know?

**JACOBSON:** I'll see how it goes.

**LOWE:** Okay. Are there any proponents for LB1960? Welcome to the General Affairs Committee. If you would please state your name and then spell it.



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**BRAD GARRICK:** Absolutely. Thanks for having me. My name is Brad Garrick. B-r-a-d G-a-r-r-i-c-k.

**LOWE:** Thank you. Go ahead.

**BRAD GARRICK:** I've done martial arts for most of my life, owning an MMA gym--an MMA gym for over a decade. And I'm also currently a city council member for the city of North Platte. I'd like to first thank you guys for all the work that you do. It's usually a thankless job with, with long hours away from your families so I understand that. And so thank you for everything that you do. Martial arts has played a major role in molding the man I am today. Without it, I'm not sure where I would have ended up. I certainly use the discipline and the lessons learned throughout my years, and I work towards sharing those life lessons with others. In my opinion, the current state-- of the current statute has some problems. It is missing amateur divisions for both kickboxing and bareknuckle boxing. This forces new participants to immediately start out as a professional. That is both dangerous and creates a barrier to entry that will keep most away. By adding the amateur ranks, it allows martial artists to grow naturally, similar to how MMA and boxing is handled today. I also feel that the addition of bareknuckle MMA as a sport gives martial artists in the state of Nebraska more options. In most sports, you get a new season every year. In combat sports, you only get two seasons, your amateur season and your professional season. This adds another division that athletes can compete in, essentially giving them another season and another fresh start. And I'd be happy to answer any questions if you might have some.

**LOWE:** Thank you, Mr. Garrick. Are there any questions? I have a friend who, I don't know if he's still competing, but competed at one time in the MMA and, I wouldn't want to cross him, so--

**BRAD GARRICK:** I miss my days of competition.

**LOWE:** No other questions. Thank you very much.

**BRAD GARRICK:** Thanks, guys.

**LOWE:** Are there any other proponents? Are there any opponents? Oh, another proponent. Please come up. Please state your name and spell it and continue.

**HENRY EMS:** Good afternoon. So my name is Henry Ems, from Lincoln, Nebraska. H-e-n-r-y E-m-s. So in January of 2021, I actually sat in

front of the committee, legalizing bareknuckle boxing in the state of Nebraska. Since then, we had three events that were actually televised worldwide at the Liberty First Credit Union Arena, formerly Ralston Arena, in which that arena was sold out. So that the-- Nebraska collected the taxes for that set of events, which noted by the Senator Jacobson and the fiscal responsibility for just beginning this is very low. So would have tenfold, any investment done in that. Now, since then, there's been three bareknuckle events for boxing and one kickboxing event that was put in with boxing. At the time when this bill was introduced, I actually pleaded with Justin Wayne at the time that wrote it to have amateur kickboxing, because we had multiple gyms in the area, Omaha, Lincoln and western Nebraska, which sent, kick boxers to Iowa and other states to get experience and to do tournaments, which we found that if we'd hosted these in Nebraska, we could keep the money here, as well as get kids experience here. While that didn't get changed, I believe that that was part of the reason that we didn't see the number of kickboxing events done. Now, I currently am the matchmaker for Dyncasty Combat Sports, currently the largest mixed martial arts promotion in the state of Nebraska. We host events at Pinnacle Bank arena twice a year Liberty First Credit Union. We did eight events last year, and we will do roughly about the same this year. Now while I agree with the amateur-- amateurization of kickboxing and bringing in bareknuckle MMA, which has been very popular, specifically in the southern regions, Florida, Georgia and Alabama, I do want to speak out against amateur bareknuckle MMA and boxing. Typically what we have seen is fighters that have done that have come in with previous experience in mixed martial arts, having already been pros. The sport itself has led to several, lacerations. While concussions might not be as large as MMA, you are still at incredible risk. While there hasn't been the training system for amateur bareknuckle, they have received previous experience in either professional mixed martial arts, kickboxing, or boxing. Now, a state that has actually been in the forefront of combat sports is Kansas. One example is Kansas hosted their first ever amateur bareknuckle boxing fight on september 23rd. They did not actually compete in bareknuckle. Contestants wore four ounce MMA gloves. So it was not legal in the sense that-- or it was not marketed as the sport might have seemed. So, I'm willing to answer any questions. I have ten years just in the business side of martial arts, on top of about 18 years of martial arts experience for 28 years. Back before that.

**LOWE:** Thank you, Mister Ems. And I'm working you down as a proponent and opponent.

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**HENRY EMS:** Yes, sir.

**LOWE:** OK. Are there any question? Yes Senator Raybould

**RAYBOULD:** Thank you, Mister Ems, how do you prohibit someone who may have been a pro kickboxer, then wants to come in as an amateur bareknuckle boxer? Do make them fill out a form? Have you at any point in your career of sports been listed as a pro?

**HENRY EMS:** So at this point actually, professionals-- so the State Athletic Commission handles that. So if you are listed as a professional fighter in any sport, as previously stated, you're not allowed to compete at an amateur level as they see that as a, as a-- to go back in a different sport, that might be a considerable experience difference. Say I have 90 kickboxing fights-- Good example, actually, I had helped an 11 time South African kickboxing champ, competed in bareknuckle, for him to go back to amateur boxing, though he was a-- just a kickboxer would have been a considerable experience difference. So the Athletic Commission themselves and the promoters and matchmakers themselves are responsible for finding out if these guys have professional experience in any sport.

**RAYBOULD:** So if they participate in a sport without declaring themselves a professional in another sport, or without the entity that's doing the screening, are they disqualified, are they penalized, or anything like that because it sounds like they would give an amateur kickboxer a beating?

**HENRY EMS:** So typically what's actually done is you're just not allowed to-- you have to go through a licensing phase. So every amateur fighter, even professional fighter, has a fighter license themselves. So as the commission and the matchmaker themselves are going through the licensing progress, you list out any previous experience, what you've done. We have different registries that go through and you-- and states record those fights. So if they go through and find out that you have previous professional experience, they will deny you an amateur license in the state.

**LOWE:** Go ahead, Senator.

**RAYBOULD:** Do you think we have put in enough safeguards in the language that we are using to, you know, add this amateur sport?

**HENRY EMS:** So--

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**RAYBOULD:** To protect and-- the individuals who might be the real amateurs against competing against the pros. Is there language in this specific bill--

**HENRY EMS:** Yes, ma'am, so--

**RAYBOULD:** --that will weed them out?

**HENRY EMS:** As far as professionals competing against amateurs, we've never really had the issue, especially now that states have every-- as the sports have become legal in other states, commissions have gotten on board with recording process, so that it is considerably harder, in any United States state to compete as a professional and not have it recorded. So there-- so as far as the safety is that's concerned, that's done. I would, like I said, be opposed to the amateur bareknuckle, as we do have other sports that will get you ready for that. Even actually, if I'm on record in 2021, I said no one would want to do that for free anyway. So--

**RAYBOULD:** Is it up to the event organizer to make sure that if you register that you are not a pro? Who is responsible for doing the verification, is it the event organizer or--

**HENRY EMS:** Both the organizer themselves and the commissioner. So the organizer themselves will enter the fighter's information into the-- what's called the national registry. At that point, typically you either have some kind of red flag come up stating that they fought as a professional. The commissioner themselves will review it and they approve all the fights. So if I would have myself, made a mistake as a matchmaker, which at this point has not happened in, I believe, roughly about ten years, that the commission will step in and stop that fight from happening. The only time that's happened is, is typically with fighters having a change, a legal change of name, or having fought in states at the time that weren't sanctioned. Nowadays every state is sanctioned for MMA, boxing, so forth. So that is not as much of an issue.

**RAYBOULD:** Okay. Thank you.

**LOWE:** Thank you, Senator Raybould. Any other questions? Seeing none, thank you. Mister--

**HENRY EMS:** Thank you.

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**LOWE:** Are there any other opponents? Any proponents? Is there anybody in the neutral? Senator Jacobson, if you'd like to close.

**JACOBSON:** Well, thank you, Chairman Lowe. I debated on whether to, to close. But given this last mixed testimony, I thought it might be important to clear a couple things up. First of all, let's be clear that the Athletic Commissioner would set the rules, and as the previous testifier testified, would also be involved with the sanction. So this idea of somebody coming in as a professional in any other mixed martial art and competing at the bareknuckle level would be stopped by the commissioner, it could certainly be done with the rules that would be laid out. We're still left with the original issue that we talked about is that you can't get experience in bareknuckle in competition without getting an amateur status first. Otherwise you're a professional and you're a professional in all those sports. There is no better-- there is another-- isn't another way for entry into bareknuckle that that has been alluded to. You're not going to get there through MMA. It's a whole different sport. So the reason for including the bareknuckle in this is so that the commissioner can set the rules, make sure that the appropriate safeguards are in place, but that these individuals can start at the amateur level, not the professional level and nixes themselves from being able to be an amateur in any of the other mixed martial arts, because they chose to try bareknuckle and had to do it at the professional level. So I don't think we want to miss the point of what the legislation's doing. Ultimately, the Athletic Commissioner will set those rules. So I'd again, I'd stand for any further questions.

**LOWE:** Thank you, Senator Jacobson. Senator Raybould.

**RAYBOULD:** I think Senator Hughes probably wanted to ask you this question, but when are you going to retire from the pro circuit.

**JACOBSON:** Myself?

**RAYBOULD:** Yes.

**JACOBSON:** Well, I've given that a lot of thought. I'm going to wait until after the Legislature because I think Senator Hughes is going to be here as long as I am, and I want to keep my-- I want to keep my skill level up.

**RAYBOULD:** I understand, thank you very much.

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

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**JACOBSON:** Thank you for your time.

**LOWE:** Thank you.

**HUGHES:** Were there any for that one?

**LOWE:** There were no online comments for LB960.

**HUGHES:** All right. We are ready to hear testimony on the bill LB836. Senator Lowe, proceed.

**LOWE:** Thank you, Vice Chairman Hughes and the members of the General Affairs Committee. My name is John Lowe, that's J-o-h-n L-o-w-e, and I represent the-- District 37, which includes Kearney, Gibbon and Shelton. Today I'm happy to introduce LB836, a bill-- a bill dealing with co-branded alcohol. Co-branded alcohol is defined as an alcoholic liquor beverage containing the same-- similar brand name, logo or packaging as nonalcoholic beverages. These things, like alcoholic Mountain Dew, Sunny D with alcohol, or alcoholic Arizona Green Tea. LB836 is designed to ensure these alcoholic brands are not sold next to their nonalcoholic counterparts. The concept here is very simple. We do not want to run into an issue where an individual accidentally buys an alcoholic beverage, or an issue where a child hands their parents an alcoholic beverage on accident for them to buy. LB836 requires that these co-branded products are not sold adjacent to soft drinks, juice, bottled water, candy, snack food containing cartoons, or youth oriented images. One caveat in this is that in stores smaller than 2,500 square feet, the products can be sold adjacent to these items, but a clearly visible sign that says this product is an alcoholic beverage available only to persons who are 21 years of age or older must, must be present-- presented to the product. LB836 is based on a rule that the Illinois Liquor Control Commission enacted last summer. I want to thank the different interest groups that work with me on this bill. My office has had lots of conversations with grocery stores and beverage companies to find language that satisfies all sides. I believe LB836 strikes a good balance of regulating safety and wellness, while ensuring we are not putting a major burden on private businesses in Nebraska. With that, I'm happy to answer any questions.

**HUGHES:** All right. Thank you, Senator Lowe. Do we have questions? Go ahead, Senator Raybould.

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**RAYBOULD:** Thank you, Senator. So, are you seeing that this is a problem in our state of Nebraska?

**LOWE:** I have come across at least one store that I've been in where on the checkout aisle, they had beer and, and these type of things kind of lined up as a last minute item to grab, and I just don't believe that's a place for them. Because they are commingled together.

**RAYBOULD:** Go-- yes. So in today's proceedings, are we having someone from the Liquor Commission discuss their concerns as well?

**LOWE:** I assume so.

**RAYBOULD:** OK. I, I guess I'm-- I look at it and the, the packaging is pretty clear when it tells it's a malt beverage or it contains alcohol.

**LOWE:** I would say when these ready to drink canned cocktails first came out, they were called Jack and Coke or something, Jim Beam and cola or something. So it was pretty well known that the brand. But here you have the first page is Arizona Green Tea. And that one, Arizona Hard Green Tea. The coloring is similar. And, as far as the blues and the pinks, it could be easily mixed. The next page is a Bang Mixx. The, the Bang is, is similar. The cans are similar. And just the little diamond says it has 5% alcohol in it. Hard Mountain Dew. You say, well, Mountain Dew cans are green, but Mountain Dew cans are all different colors. Again, just a plain Mountain Dew. So the packaging is getting confusing on some of these items. And for a child to recognize a Mountain Dew can that they can have to drink, and grab one of these that might be right next to it may be a problem.

**HUGHES:** Oh. Go ahead, Senator.

**RAYBOULD:** So did-- is this a bill that you had-- you're bringing to our attention because you have a concern, or did another organization--

**LOWE:** The Liquor Commission also had a concern with this.

**RAYBOULD:** OK. All right. Thank you.

**HUGHES:** Do we have other questions? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chair. And thank you, Chairman Lowe, for bringing this bill. So these Mountain Dew ones is what I'm looking at.

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Would the-- this satisfy this statute that you're proposing, or would they just not be good enough?

**LOWE:** Well, they they just can't be placed next--

**J. CAVANAUGH:** OK. I think you had some labeling requirement too.

**LOWE:** Not--

**J. CAVANAUGH:** Maybe that was the font size of the sign? Sorry.

**HUGHES:** Of the sign.

**J. CAVANAUGH:** OK. So I got you now.

**LOWE:** Yeah.

**J. CAVANAUGH:** Thank you.

**HUGHES:** Other questions?

**LOWE:** I know other states have made the cans change their labeling, but--

**J. CAVANAUGH:** We're not there yet?

**LOWE:** We're not there yet.

**HUGHES:** Go ahead, Senator.

**RAYBOULD:** Sorry. You mentioned the state of Illinois. They have-- did they make requirements to change the labeling or did they make requirements that you have to segregate them?

**LOWE:** They made requirements that they have to segregate them. Like this is modeled after the Illinois.

**RAYBOULD:** Okay. Thank you. That's all I have.

**LOWE:** Which was-- which was most reasonable one we found.

**HUGHES:** So I have a question. I know I, or I think I know in when you're a retailer, a lot of times a supplier comes in and sets up the displays. If-- let's just say you're a grocery store owner or whatever, and the suppliers come in and set it up and they violated this, like, is there like, I guess, what are the-- what happens if



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you're found in violation of the act, or how are we going to-- maybe once this goes through, all our distributors are going to know what the deal is and make sure they--

**LOWE:** That will be up to the Liquor Commission.

**HUGHES:** OK. We can follow that up. OK. Any other questions? All right. Thank you, Senator Lowe. Let's start with proponents. Any proponents come forward, please. Thank you. Go ahead, state your name. Spell it, and then.

**RICH OTTO:** Thank you, Vice Chair Hughes, members of the General Affairs Committee. My name is Rich Otto R-i-c-h O-t-t-o. And I am here on behalf of the Nebraska Grocery Industry Association, the Nebraska Beverage Association, and the Nebraska Retail Federation testifying in support of Senator Lowe's LB836, which would regulate how co-branded alcohol products are displayed. We thank Senator Lowe and his staff reaching out to the industry and accepting feedback on this bill. It was introduced with flexibility for smaller retailers and seeks to avoid unintended consequences of other business practices common in the grocery industry, such as slotting fees. We'd like the committee to consider more clearly defining, or instructing the Liquor Control Commission to, in their regulation, more clearly define what immediately adjacent means. For instance, similar products at a store. If they're in the next cooler over, does that count? So Senator Lowe mentioned the 2,500. So we appreciate the small store sign provision. We have seen stores that are above that, but yet still tend to have coolers with, oh, Mountain Dew here. And then maybe they'll have this Hard Mountain Dew in the next one over. Is that immediately adjacent? How far? So we would like to have clear understanding of that for those stores that are above the 2500, but yet still have somewhat small footprints that they can be not outside a violation just by having them and maybe the next cooler over. Otherwise, we generally support the approach. Again, thanks to Senator Lowe for reaching out, working with us and, using the Illinois model for this legislation. With that, any questions you may have.

**HUGHES:** Thank you. Questions for Mr. Otto? All right. Seeing none. Oh. Go ahead. Sorry.

**J. CAVANAUGH:** Thank you, Vice Chair. Thank you, Mr. Otto, for being here. I-- well, I guess I'm wondering what you're-- you kind of got a little parsing about what is immediately adjacent to. And, I mean,

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there's a pretty clear definition of that. You're thinking that isn't clarifying enough that they could be in another shelf? I guess--

**RICH OTTO:** Well, it is fairly clear in the language, so there probably doesn't need to be clarification there. As we worked with the commission, we had specific stores reach out to me and say, hey, does this count, or does this count? And so I'm sure the commission will work with us saying, hey, we think that violates the immediately adjacent. We just-- again, this is those medium sized stores that tend to have everything in coolers. Often you'll see, like single Mountain Dews. And then how far away do they actually have to have the hard Mountain Dew? Because typically a lot of them have these coolers for their alcohol, and those may connect to the other coolers that are selling soda and other things. And they were concerned that that may-- that they would obviously want to use that for it, but that that would still be in violation of immediately adjacent. So I'm sure we can work with the commission on it.

**J. CAVANAUGH:** Thank you. I had another question about under at section 4 [SIC], which is kind of the this shall not apply. The-- I guess-- is your interpretation, maybe you're the wrong person to ask this, but you're who I've got right now. This section does not apply to a shelf, aisle, display or display area in which primary items for sale contain alcohol, liquor, or in areas in which a person younger than 21 years of age are prohibited from entering. I-- is that a-- I guess you have a comment on that section. My read on that, in a section that's primarily for the sale of alcohol. You can put--

**RICH OTTO:** Right.

**J. CAVANAUGH:** --non-alcoholic beverages next to the alcoholic beverages?

**RICH OTTO:** Just off the top of my head. My thought is that many stores have specific alcohol sections. Larger grocery stores have an alcohol section. Often we do put Mountain Dew and other products in those sections as maybe, you know, Coke to go with Jack to mix it with. So it's convenient for customers. They don't have to walk all the way across the sect-- the aisle. We're saying if it's in that section, we should be allowed to sell the non-alcohol products with those as convenience to our to our customers and not get in trouble since it's the alcohol section.

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**J. CAVANAUGH:** So these are the sections that are essentially function like a standalone liquor store.

**RICH OTTO:** Liquor store. Right. But we have these non-alcohol products in those sections for convenience.

**J. CAVANAUGH:** Okay. So you're not an Omaha guy, but there's a Hi-Vee on 78th and Cass that has kind of like it's almost a standalone liquor store, are you familiar with that one?

**RICH OTTO:** I'm not familiar with that particular location, but--

**J. CAVANAUGH:** So it would mean-- but more like that, as opposed to my Hy-Vee, which is 52nd and Center that has basically 1 or 2 aisles of alcohol.

**RICH OTTO:** Right. So usually-- you're exactly right. I interpret it as the kind of additional section. If the aisles are separated, we would hope that would still, count potentially. Some aren't as divided as others. And so if the intent of the grocer is to keep it with the alcohol, we would like the commission to see that as this section that, hey, we had this in the alcohol part. And just because we put some, some Coke over there that we're not in violation.

**J. CAVANAUGH:** Would it make a difference if they had a standalone other Coke section or not?

**RICH OTTO:** Well, that's the thing we're trying to avoid. I don't think it does. We're trying to avoid having these items in the soda aisle, so.

**J. CAVANAUGH:** Well, I mean, in this particular part where you can put Coke next to the hard alcohol, does it make a difference if you also have Coke in the soda aisle?

**RICH OTTO:** It shouldn't in my interpretation, or I don't think it should. We-- grocers don't want it to. We want to have both.

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

**HUGHES:** Thank you, Senator Cavanaugh. Anybody else? All right. Thank you for your testimony. Next proponent.

**HOBERT RUPE:** Good afternoon, Vice Chairman Hughes, members of the General Affairs Committee, to answer Senator Raybould's question. Yes,

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somebody from Liquor Control Commission will be talking. My name is Hobert Rupe. I have the privilege of serving as executive director for the Nebraska Liquor Control Commission. And we are in support of this bill.

**HUGHES:** Can you spell name?

**HOBERT RUPE:** Hobert, H-o-b-e-r-t R-u-p-e. You'd think I've done this enough I should have remembered that. The concern-- these products have become a concern over the last couple of years, and has been growing. First you saw, of course, flavored malt beverages, which were beer-- which are, which are a beer based alcoholic product which are often, you know, made to be taste nothing like a beer. Most of your, your seltzers and such were actually a flavored malt beverage category. And then when you saw the canned cocktails begin, you saw more of this, you saw a little commingling. The first one I remember seeing was Jack and Coke. But it was clear, it was clearly Jack Daniels iconography and Coke. It was clearly the-- there's a combination of the two. Since then, you've seen a lot of the products that you heard Senator Lowe discuss, and there are only more of them coming down the pipe. This was one of the reasons while this committee may remember a couple of years ago, we had the brand registration part of the bill so we could actually track these things better. That system is set to go live. It has by statute by July 1st where it's going to probably go live middle of May. We'll start building the database out for that, for that perspective as our new computer system goes online. So this is a big concern the commission's had. You heard Senator Lowe speak of the Illinois model. This is an issue that's been discussed recently at the National Conference of State Liquor Administrators. A lot of states are handling this. Illinois attempted to do it by a bill, but got it in too late so it couldn't get passed. And so the Illinois Liquor Control Commission did an emergency rules. I think they're still trying to seek statutory authority as well to do it. That's how serious it was to them. Virginia has also adopted similar rules. I know part of the debate when people were looking was, are we going to go with sort of the Virginia model, the Illinois model. The Illinois model worked a little bit better because Illinois is similar to Nebraska in that it's a licensing commission, whereas if you'll remember, Virginia is a control state where they're actually act as the wholesaler. So that was a little-- so I think the model of, of Illinois was a little more clear. And they'd already done a lot of the heavy lifting on trying to help address some of the small vendors. These brands can be confusing. I'll give the industry some quo-- some-- you know, they tried to make it look a little bit different.

They'll try different can sizes, different can shapes, but lot of times all they'll do is invert the coloration. You know, it'll be you know, where if if the nonalcoholic brand is black-- is green with black lettering, they'll go black with green lettering. One of the most confusing ones I've seen recently is a is a brand of a company called Beast. They're Monster's version, and they have the same three claw marks going down, only they're si-- and very similarly colored. And, you, you got to really look. I mean, if you have to look to see what it is, you know, that gets a little bit concerning. So, yeah, this is an issue that not only Nebraska is dealing with, but nationwide as these products are coming out. And I really want to commend Senator Lowe for taking the advantage of going forward. I see I'm out of time, so I'd be happy to answer any type of questions.

**HUGHES:** Any questions? Go ahead, Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chair. Thank you for being here, Mr. Rupe. So you heard my conversation with Mr. Otto. So I guess I'm, I'm curious about this. I mean, well one, do you have a response to his about this problem

**HOBERT RUPE:** I think he's right. I think the way I read the bill when it came out was, as you'll look if, I mean, you said Hy-Vee, I know that most of the, the Russ' have a similar situation where you have a clearly marked area off with a separate cash register as well for alcohol. And so you might go ahead and have mixers primarily, what I would say is that is, so you don't have to have the 7 Up there. You don't have to go all the way into the store to get that. If you want to buy the two liter 7 Up to go home with your-- with the product. But more than likely, if you look into those, it's very small because they don't want to take up space for that too much. So your main display of, of those Coke products, as you said earlier, will be in the soft drink aisle, where you might have a couple of them in the other areas, primarily as for ease of consumers for mixers. In those areas, it's sort of one of those-- you clearly see that's a clearly demarked-- like, as you use the term, almost a mini liquor store. It's clearly that's where the, that's where the liquor is being stored. That's where all the wines are at. That's clearly a liquor area. So if, you know, if I see a ten year old walk in, run into there and come out with something and I'm a parent, I'm going to look very carefully at what the kid brought out.

**J. CAVANAUGH:** Yeah.

**HOBERT RUPE:** So.

**J. CAVANAUGH:** And what about Mr. Otto's comment about the, like, contiguous free-- cooler?

**HOBERT RUPE:** I think the statute is pretty clear, actually. We, of course, the commission has a history of working with the industry and with other interested parties to make sure that's clear. I anticipate, what would happen with this, we probably would meet with-- if it were to pass, we would meet with most of the industry and do a temporary guidance document right off the bat, sort telling people what it is, what to look for, what's not. And generally, we would probably work with our patrol investigators. We would probably do, a first, first problem warning, and then the second time, probably then look for actual violation to give them a shot. That's-- any time there's a major change like this on this, we try to work with the industry to get them into compliance. We always try to get them into compliance rather than going down the punishment route first.

**J. CAVANAUGH:** Thank you.

**HUGHES:** All right. Other questions? Seeing none. Thank you very much.

**HOBERT RUPE:** Thank you.

**HUGHES:** Other proponents?

**CHRIS WAGNER:** Good afternoon. Chris Wagner, C-h-r-i-s W-a-g-n-e-r, with Project Extra Mile, which is a community partnership, coalition of partnerships across the state. And we're working to reduce and prevent alcohol-related harms. We're here in support of LB836 and want to sing-- thank, Senator Lowe and the commission for supporting this important piece of legislation. Our state has experienced too many tragedies involving young people who lose their lives early due to alcohol. An estimated 22 underage Nebraska youth lose their lives every year due to alcohol related causes, resulting in over 1,000 years of potential life lost. LB836, we believe takes the first step towards a common sense measure that would help prevent these tragic deaths by separating or distinguishing alcoholic beverage, beverages from nonalcoholic beverages in retail locations across our state in which these products are branded in a similar manner. Research has found that brands utilizing more youth appealing content were more likely to be consumed by youth, and other studies have shown underage exposure, to alcohol increases earlier alcohol use, initiation, and

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engagement in binge and hazardous drinking among youth. I realize that, Senator Lowe did hand out some examples. So I had also included in my testimony some examples as well to to show you really how similar those can be. And I would just note, of course, for us as adults, it's, it's a little bit easier for us to discern these alcoholic products from nonalcoholic ones. But for youth, I, you know, I just don't think they're quite as discerning as, as adults are. And, I think this is a, this is a good, compromise, as we heard earlier, to make sure that we're at least identifying these alcoholic beverages that look similarly as alcoholic and, if at all possible, separating those, to make sure that we are keeping these out of the eyes and out of the hands of youth. With that, I would urge you to act as quickly as possible as you can on this bill and, get it to the Governor. Thank you.

**HUGHES:** Thank you for your testimony. Questions? OK. Very good.

**CHRIS WAGNER:** OK.

**HUGHES:** Thank you--

**CHRIS WAGNER:** Thank you.

**HUGHES:** --for coming today. Do we have any other proponents? OK, seeing none, opponent. OK. Neutral. None. All right. Senator, Lowe, closing please.

**LOWE:** Well, I'd like to thank the testifiers that came up here. Mr. Otto, Mr. Rupe, Director Rupe, and Mr. Wagner. Back in my youth, it was easier for law enforcement officers to spot a product if you were driving down the road with an open beer can because everybody knew what a Budweiser can looked like, or or a Pabst Blue Ribbon can looked like. So you bought the wraparounds to hide what you were drinking. That's a little bit harder now when it comes directly from the grocery store or the convenience store and your children are involved. So I'd like the General Affairs Committee to take a look at this and we can put it on consent agenda, maybe. There weren't any opposition, there was not any opposition to this. So with that, I'm closing.

**HUGHES:** OK. Thank you. And for the record, we had three proponents, one opponent, and zero neutral in terms of comments, so. All right, that concludes LB836. So now we will switch gears and go to LB839. Ready. Ready? All right.

**LOWE:** Thank you-- thank you, Vice Chairman Hughes and 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 Kearney, Gibbon and Shelton. LB839 makes three changes that impact the State Racing, Racing and Gaming Commission. First, it allows the Governor to remove a commissioner with cause. I believe this is an important tool for the Governor to have, because it will allow for greater executive branch and legislative branch oversight of the commission. I mentioned extra legislative oversight because if a Governor were to remove a commissioner, the Governor would then appoint a new member who would have to receive approval from this committee and the Legislature as a whole. I should add that this language matches the language dealing with the Liquor Control Commission. These are both important commissions with oversight of industries that bring in significant tax revenue, and are areas that do deal with vices that the state heavily regulates. It makes sense to me that the Liquor Control Commission and the Racing and Gaming Commission operate in similar fashion when it comes to their Commissioner. LB839 also looks at changes to see how the Executive Director, Racing and Gaming Commission is selec-- is selected. Currently, this position is simply selected by the commission. LB839 changes that by maintaining the commission selection, but also requires the Governor sign off on the hire. Lastly, LB839 requires the Executive director of the Racing and Gaming Commission does not engage in any other profession or work in any other business. The requirement is intended to ensure that the Executive Director is a full time employee, focusing his or her attention to this critically important position. Colleagues, I believe LB839 is the most important gaming related bill that we will see this session. It provides critically important oversight of the commission and ensures the executive legislative branch share this oversight. As many of you know, I'm not a fan of, of gambling in Nebraska. I opposed gambling before the constitutional amendment, and I worked hard advocating against the amendment. But the people in Nebraska have spoken. Since that time, I've worked to make sure we have the best practices and the best possible oversight of this industry. LB839 follows in that same direction. And I-- and with that, I would be happy to answer any of your questions.

**HUGHES:** Thank you, Senator Lowe. Do we have questions? Yes, Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chair Hughes. And thank you Senator, Chairman Lowe, for bringing this bill. One thing, I guess, what you just said reminded me of the fact, like how much work goes into



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creating these regulations. And we were building it from whole cloth, and now we need to fix some of the things that we built. So I appreciate you taking the time to do that. And I guess my question that jumped out to me in this, in terms of the hiring, how would a conflict be resolved if the commission wants to hire somebody and the Governor doesn't for as the executive director? Is there a mechanism to resolve that conflict, or is it just we don't hire anybody until they both agree?

**LOWE:** I think we just don't hire anybody until they both agree.

**J. CAVANAUGH:** Thank you.

**HUGHES:** Other questions? Senator Raybould.

**RAYBOULD:** Yes, Senator Lowe, so any hiring of the Racing and Gaming Commissioner Executive Director has to come through the Legislature for approval, just like a lot of the--

**LOWE:** The commissioners, like, like the Arts Council or something like that.

**RAYBOULD:** And then, you know, we heard recently the controversy in the paper about some of the decisions made by the executive director in purchasing certain types of, of weapons. And so and then it seemed like the director resigned. And I guess who puts pressure on the individual to resign or how is that handled? And, and I guess, do we have someone from racing and gaming to talk a little bit about the the use of those weapons during their--

**LOWE:** I'm not sure if there's anybody behind me coming up to speak on that at this time, but right now it's just the commission that can hire or fire the director.

**RAYBOULD:** And so this change would allow the Governor to do so with cause.

**LOWE:** Yes.

**RAYBOULD:** And right now the Governor does not have a say.

**LOWE:** He does not have a say.

**RAYBOULD:** So the Governor would now have a say in the hiring and the firing.

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**LOWE:** Yes.

**RAYBOULD:** OK. Thank you.

**HUGHES:** OK. Further questions? I guess I have one question which maybe I can answer myself. The, the full-time executive director. How are-- how is their salary funded? Is that just from Racing and Gambling Commission?

**LOWE:** Yes.

**HUGHES:** Yeah. All right. Well, thank you. Oh, sorry. Go ahead.

**J. CAVANAUGH:** It's OK. Thank you, Vice Chair. Thank you again, Chairman, I just wanted to clarify one thing from the conversation we were just having. You're, you're-- in this bill, you're changing the hiring of the executive director has, has to have the approval of the Governor. That's one part. And then the other part is that the Governor can fire commissioners from the commission. Is that right?

**LOWE:** Mm hmm.

**J. CAVANAUGH:** And my understanding is that the Governor can't fire the executive director. Is that right?

**LOWE:** Mm hmm.

**J. CAVANAUGH:** Okay. Just wanted to make sure, there was a bit of a--

**RAYBOULD:** Oh.

**J. CAVANAUGH:** I wanted to clarify for Senator Raybould so we're--

**RAYBOULD:** Thank you.

**J. CAVANAUGH:** --we're creating a-- we're giving the Governor the-- this bill would give the Governor the authority to fire commissioners, the commissioners who are the ones who have the ability to fire the executive director.

**LOWE:** Mm hmm.

**J. CAVANAUGH:** Is that correct? Thank you. Thank you, Chairman Lowe.

**RAYBOULD:** Thank you.

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**LOWE:** Thanks.

**HUGHES:** All right. Thank you, Senator Lowe. Do we have any proponents for this? OK. Not seeing any. Any opponents? And any neutral? Well, that was easy. Would you like to sit back up here, Senator Lowe, and he waives. So this is the quickest one today. LB839 is finished. We're going to take just a three-minute pause before this last one, because someone might go use a facility quick. Is that OK? Five minutes. Five minutes break. Go. Senator Lowe, take it away with AM2035 to LB685.

**LOWE:** Thank you, Vice Chair Hughes and 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 Gibbon, Shelton and Kearney. AM2035 is a white copy amendment that replaces all of the language of LB685, which was this white book here before. We have worked diligently through the interim with the industry and with the lottery division of the Department of Revenue, who oversees and regulates these type of skill games. To that end, AM2035 keeps the Mechanical Amusement Device Tax under the Department of Revenue. Last year, Senator Briese had proposed, LB685, that we move the regulation of these games to the Racing and Gaming Commission, and we have decided it's better suited to stay under the jurisdiction of the Department of Revenue. The amendment adds some critical new language that is needed to adequately cover the scope of what is needed to properly regulate these games. We have included a definition of manufacturer of cash devices into the statutes, which are proposing they pay an annual licensing fee of \$5,000. We are proposing distributors of the cash devices also pay that same annual license fee. To be clear, this license fee is a once a year fee, fee paid at the highest level of the skill game industry. This fee is not applied to the bars, restaurants, grocery stores, etcetera that are home to the device. And the fee is \$5,000 no matter how many machines the manufacturers or distributors have. If they have one machine in the state, or 10,000 machines, it is a total of \$5,000 per year for each manufacturer or distributor. AM2035 requires background checks for anyone applying for a license that would-- that-- and it requires the creation of a central server that each cash device would be required to be connected to for accurate reporting revenue. We have made sure the authority of the department is clear for passing of the rules and regulations, and we have allowed for administrative penalties to be assessed by the Department for the violations of this law. These sections of amusement-- these sections of the amendment deal with some extra regulation of the industry. I have had some conversations about background check aspects of this, and I am working on an amendment to address a few concerns that were

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brought up on this issue. The central server will allow the Department of Revenue to know how much money needs to be taxed from each machine, and it will allow them to have more clear understanding of any potential unregistered machines in the state. Allowing the department to write clear rules and regulations creating an enforcement mechanism is just common sense and is desperately needed. We also added language that requires an operator of skill games to have at least 60% of their gross operating revenue come from other sources of income. This language was added because we are now seeing skill games set up as de facto casinos, where the only thing occurring at the location is skill games. This language would allow bars, restaurants, grocery stores and gas stations to continue operating skill games while cracking down on these de facto casinos. This amendment levies a tax of 5% on the net operating revenue. I repeat, the net operating revenue of each cash device annually. Net operating revenue is also defined in this amendment. Previous efforts on taxing these devices put the tax rate at 20%, but after talking with industry leaders, the 5% number seemed to make more sense. Currently, skill-- games of skill pay two types of fees or taxes to the state. One is \$35 a year occupation tax. They also pay a \$250 a year licensing fee, for a total of \$285. That is the extent of the revenue the state currently receives from each one of these machines. This tax revenue will be split up in a few different ways. 20% will go to the Charitable Gaming Division to help fund the enforcement of this act. 2.5% will go to Compulsive Gamblers Assistance Fund, and another 2.5% go to the General Fund. 10% will go to the Nebraska Tourism Commission. 40% will go to the property tax credit cash fund, and at least 25% will go to the county treasurer for the county the machines are in unless the machines are in a city. Then the money will be split evenly between the city and the county. At the end of the day, AM2035 is an effort to ensure these skill games are properly regulated and that these games start paying taxes on their income. I think it is a very important piece of legislation. I'd be happy to answer any of the questions.

**HUGHES:** All right. Thank you, Senator Lowe. And we'll start with Senator Raybould. Go ahead.

**RAYBOULD:** Thank you. Senator Lowe, correct me. I may have misheard you say this. I thought you said each operating device gets taxed, but then in your, clarifying it says 5% of the net operating revenue of the location.

**LOWE:** Of each machine.

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**RAYBOULD:** So each, each device gets taxed 5% of the net.

**LOWE:** Yes.

**HUGHES:** That's the proposal.

**RAYBOULD:** OK. Thank you.

**LOWE:** Of, of, of the net, not, not cash paid in.

**RAYBOULD:** Yes and-- oh.

**HUGHES:** You're recognized.

**RAYBOULD:** So, does the Department of Revenue already operate a central server so that--

**LOWE:** No, the Department of Revenue does not operate a central server. That would have to be something that they will have to purchase. And the tax money that, that comes from this will help pay for that.

**RAYBOULD:** Pay for that. And they have to hire--

**LOWE:** And the upkeep.

**RAYBOULD:** Will they have to hire additional staff to--

**LOWE:** I have not seen the fiscal note on this yet.

**RAYBOULD:** OK. Thank you.

**LOWE:** Because it is a [INAUDIBLE].

**RAYBOULD:** OK.

**HUGHES:** Other questions. OK. And I just for my own clarification for a local entity, they will pay a \$1,000 per year per machine to register it, and then the 5% on that. Is That-- am I wrong? Am I right?

**RAYBOULD:** That's not correct.

**LOWE:** No.

**HUGHES:** OK. That's not-- what's the occupation?

**LOWE:** OK, the sticker. The sticker fee of \$250.

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**HUGHES:** The sticker fee is 250 a year. OK, OK, sorry. So it's the \$250 a year--

**LOWE:** Per machine.

**HUGHES:** Per machine, plus the 5% net tax. OK. That's what I wanted to-- \$250. OK. Yes, Senator Cavanaugh.

**J. CAVANAUGH:** Sorry. Thank you, Vice Chair, and thank you, Chairman Lowe, for bringing this very interesting topic to talk about. Does that 5% net, would you be able to deduct the \$285 as part of a cost from that, or is that separate revenue I guess, or separate cost.

**LOWE:** Talk to your accountant.

**J. CAVANAUGH:** All right. I hope to not have to. Thank you.

**HUGHES:** All right. Any other questions? Nope? All right. Thank you.

**LOWE:** It's just nice to see everybody here. And it's cooler in here this time than last year.

**HUGHES:** And I'm freezing, though. All right. We are going to start with proponents. So come on up.

**BRIAN ROCKEY:** Good afternoon, Vice Chair Hughes, Senator Lowe. For the record. I'm Brian Rockey, B-r-i-a-n R-o-c-k-e-y. I serve as the director of the Nebraska Lottery and Charitable, Charitable Gaming Division of the Nebraska Department of Revenue. I'm here testifying today as a proponent of this amendment in this bill. Previously, you may recall I provided testimony on the original bill in February, and then as part of the interim study process, several weeks ago. One thing I'd like to itemize in my testimony is the fee structure in the amendment to kind of give you a context of how this would, would work, at least how we how we see it. Currently, there are 76 distributors, and this was as of calendar year. And, so each of them paying a \$5,000 annual fee. There are 5,852 decals issued right now, and the annual decal fee of \$250. There are 1,611 operators. The annual decal fee, or annual licensure fee for the operators would be \$250. And then, I believe, four manufacturers presently in the field, so \$5,000 a year. So the annual fee structure looks to be \$2,265,750. The division has estimated \$365 million in annual cash device sales. Assuming devices pay out 60%, the tax on the net proposed by the amendment would yield \$7.3 million. I'd be happy to answer any other questions or any

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questions you have. And if you have no questions. Thank you for your consideration.

**HUGHES:** All right. Do we have questions for Mr. Rockey? Go ahead, Senator Raybould.

**RAYBOULD:** Director Rockey, could you talk a little bit of-- about how you envision this would get implemented?

**BRIAN ROCKEY:** Sure. We currently, of course, have a relationship with the licensees. They go through a process. The biggest question is probably the central system. Georgia is probably the prototypical state. They have been managing these devices with a central system for ten years or so, and they have 22,000 or so devices. It is also part of the, the Department of Revenue, part of the, the lottery actually there. We've had some consultation with, with Georgia representatives on, on what goes into their system and how their RFP was done. So we would obviously do a procurement, we'd do an RFP. There are a few vendors in the industry that would provide this sort of system. The, the very crude thumbnail sketch of this is that each, each term-- each device would have a connection, I assume an IP address or something, to the central system that would allow us, allow the division to see their daily activity. And some of the, some of the operators, I think, are already able to do that because of the large number of devices that they perhaps have. So I don't know if it would be a, a pass through from their central system to our central system, or if it would be 1 to 1, we have to sort that out, but I hope that answered your question.

**RAYBOULD:** I guess looking at the Georgia example, did they have to add more stuff, or like, I assume it's like the system and software and upgrades and--

**BRIAN ROCKEY:** Right, the--

**RAYBOULD:** Connectivity and--

**BRIAN ROCKEY:** They do have dedicated staff, for the cash device. They, they call it COAM, cash operated amusement devices. They do have a specific staff for that. We would potentially have to have an additional I.T person, as well as, you know, maybe an initial inspector or investigator in the field. The, the pricing on the, on the project is going to vary depending on the vendors. In the case of Georgia, I think their vendor bid 1.39% or something like that of the

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annual handle. In the first year the vendor received \$880,000. Again, that's a very large system. 22,000 plus locations, much larger than ours would be. But that it-- to give you a sense, it will probably be a percentage of sales. From the lottery perspective, that's-- that is our experience when we, when we did a system. Typically the, the industry providers will do it on a percentage of sales as opposed to a flat rate.

**RAYBOULD:** Thank you.

**HUGHES:** Other questions for Mr. Rockey? I get-- I have just one. On that centralized system, like, do you have just kind of a rundown? I mean, clearly it's going to keep track of money coming into the machine, money going out.

**BRIAN ROCKEY:** Hours of operation, most likely.

**HUGHES:** Uh huh.

**BRIAN ROCKEY:** The status of the device. One of the things that we've-- that we noted, I think when we provided information at the interim study hearing is we have a certain number of decals that are sold, \$250 apiece, but that doesn't match the same number of devices in the field. And why is that? Well, because the decals are procured and they may be on devices that are in the warehouse or they're awaiting devices. Devices move periodically for service or whatever. And so that's one of the status questions, or status issues I think that would-- the system would show us, is the device active at this location or is it inactive in the warehouse, or is it at this location?

**HUGHES:** OK. Other questions? All right. Seeing none, thank you.

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

**HUGHES:** Other proponents.

**MATTHEW PHILIPPSEN:** My name is Matthew Phillipson and I'm one of the owners of Trestle Games and Midwest Amusements. We're located in Bellevue, Nebraska. I'm here today to--

**HUGHES:** Can you spell your name and--

**MATTHEW PHILIPPSEN:** M-a-t-t-h-e-w P as in Paul h-i-l-i-p-p-s-e-n. Here today to discuss how we are in favor of this bill. A year ago we sat



up here and were against it. But we're very thankful to Senator Lowe and his office to be able to work with our industry, to modify it to come to a mutual agreement on, on how this could possibly move forward for this industry. Trestle, we're a licensed manufacturer in multiple different jurisdictions, including the state of Georgia, other class three jurisdictions like South Dakota, Montana, Louisiana and West Virginia. And some of these jurisdictions do have a central server. OK. And so therefore, as a manufacturer, we are able to modify and have our software be approved by a third party independent laboratory like we already did here, that, the that we met, the technical standards to have our software approved by the Department of Revenue. But any other type of advanced, OK, technical standard, we already meet that in different jurisdictions. So it can be done by other manufacturers. And it just happens that we're located in Bellevue. And it's been fortunate for our company's growth to be able to manufacture devices and sell them or operate them here in the state of Nebraska, but also build our manufacturing company here in Nebraska to be able to distribute and sell product throughout the United States. And I've actually relocated from Florida. We've relocated people from Iowa, Texas and Tennessee to become Nebraska residents. And therefore I just hired two more people today. So, you know, we're, we're erasing that brain drain that, you know, from people going down to Kansas City, Chicago or Denver. And, you know, I have other customers and other competitors that have actually continued to grow their businesses here in the state of Nebraska because of the the opportunity on either operating skill games or building their businesses for other states. So with that I'd take any questions regarding any of the technical standards or any other ideas or questions you may have about manufacturing.

**HUGHES:** OK. Thank you. Questions? Senator Holdcroft.

**HOLDCROFT:** Thank you, Vice Chair. I noticed that Director Rockey provided some numbers here, and they-- he lists four manufacturers. Is that-- Is that right? I mean, you being one of four different--

**MATTHEW PHILIPPSEN:** For the most part, yes. So there's-- I think there might be a little more than that, but, yes, I'm-- Trestle Games is one of the approved manufacturers here in the state.

**HOLDCROFT:** [INAUDIBLE] four in Nebraska. So, how many different variants do you have of these skill games?

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**MATTHEW PHILIPPSSEN:** We have eight different software sets, all right, that are approved cash devices here in the state of Nebraska.

**HOLDCROFT:** OK. I'm just curious, how do you hook into a central?

**MATTHEW PHILIPPSSEN:** So right now on our central server, or our software is-- hooks through a, a comp port on the logic board or game board inside the cab? OK. It's in a secure, secure enclosure. And therefore that com port is dedicated only to the central server. All right, if something else happens, if it, if it doesn't, if it stops communicating, it sets up an alarm and the, and the device ceased to work at that time.

**HOLDCROFT:** OK. I'm still not following you. Is this a internet connection then to some kind of a website or--

**MATTHEW PHILIPPSSEN:** Basically a server meeting is that you have it, for instance, in the lottery office or the Department of Revenue here, and then it communicates with a site controller at the location.

**HOLDCROFT:** OK. Thank you.

**HUGHES:** Thank you. Senator Raybould.

**RAYBOULD:** As a follow up question to Senator Holdcroft, who would be responsible for the maintenance of that connection? Is it the manufacturer? Is it, say, the location itself, the retailer, or who's responsible for the the maintenance of that connectivity? Is there a fee? And then also, any software upgrades or anything like that, who would be responsible, who's responsible for the security?

**MATTHEW PHILIPPSSEN:** So the security of the device is responsible for by the manufacturer or the distributor that operates that device in the location. Internet-- I mean, there's instances where we provide internet, OK, or the location, it just becomes down to the negotiation with the location. But either way, you would need a, a internet connection at that location. So to be able for it to work. So it's whatever the, Department of Revenue would, would require, either the location or the operator to maintain that.

**RAYBOULD:** OK. Thank you.

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

**MATTHEW PHILIPPSSEN:** Thank you.

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**HUGHES:** Next proponent.

**MARK PHELAN:** Hi, senators. My name is Mark Phelan. That's spelled P-h-e-l-a-n. I'm president of U.S. gaming for Accel Entertainment. Accel is the largest route gaming operator in the United States. For those who may not be aware, route gaming is the business of placing electronic gaming machines. That includes both games of chance and games of skill in third party retail establishments in states where, specifically, there's a statute in the state law that allows that activity, and there's a regulatory authority that, confirms that the participants in that market comply with that state law. We as a company, currently operate about 26,000 of these electronic gaming machines across nine states. And we partner with over 3,500 retail establishments. We decided to come into the mechanical amusement device, and cash device market, they're different machines, in Nebraska in July of 2022, only after we confirmed that the state, had a very clear legal opinion about the legality of these machines, and that there was a regulator, in which both requirements were met. Since then we've, we operate about 350 mechanical amusement device machines, as well as about 800 cash device machines across 250 retail partners from here all the way to-- across the state. We employ about 70 skilled technicians, cash processing specialists and account managers who help these retail partners use our games to support their primary retail business. All of these people obviously pay Nebraska state income tax. Our company in Nebraska is called Husker Gaming, and any income generated by that entity in Nebraska pays Nebraska state income tax as well as property, personal property tax on our machines, as well as property taxes through our three state warehouse and offices. We are a proud Nebraska company. We represent locations all over the state. We believe that on average, about 7 to 10 employees, are at each of our locations that we partner with so that every day our machines, we believe, help at least 2,000 entrepreneurs complement their primary retail business across the state. We initially invested in Nebraska, in part because of the historical collaboration between the government of Nebraska and entrepreneurs, and people who are trying to grow the economy here. In regards to Senator Lowe's amendment, we believe that's very consistent with that type of, of historical precedent. We commend Senator Lowe for seeking out collaboration from the industry, which is is extremely rare in my experiences. And he, was very careful to take our feedback specifically, and to approve the bill, which I think he did. I think the bill goes a long way to make this industry much more mainstream

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and a much more collaborative and solid partner with the state. And so we do support it. And I'm happy to take any questions.

**HUGHES:** Thank you. Questions for-- We'll go with Senator Raybould.

**RAYBOULD:** Yes. Thank you, Mr. Phelan, for coming. In any of the 9 states that you operate in, do they have a central server?

**MARK PHELAN:** They do, ma'am. In fact, all of them they do.

**RAYBOULD:** In all the 9 states?

**MARK PHELAN:** Yeah. We're actually in Georgia. That's a reasonable comparable with this market, because those games are games of skill, not games of chance. Slight correction on the statistics there. I'm very familiar with them. It's actually about 32,000 games. It's about six times as big as this market. They also have a large staff. I think it's about 25 people. And they have their own administrative court, actually. So it's a large infrastructure there. I think this bill recognizes that we're not that market. And I think the tax rates, differ a bit. And I think you have to sort of appreciate the fact that one's much bigger than others and, sort of have proposed reasonable taxation. And that's why we support this bill.

**RAYBOULD:** OK. Thank you.

**HUGHES:** Senator Holdcroft.

**HOLDCROFT:** Thank you, Vice Chair. So I, I'm going back to Director Rockey's spreadsheet again, and-- Are you, then, in a distributor?

**MARK PHELAN:** Yes, sir.

**HOLDCROFT:** OK, it says that we have, like, 76 distributors--

**MARK PHELAN:** That's right.

**HOLDCROFT:** --in the state.

**MARK PHELAN:** Yeah.

**HOLDCROFT:** You're one of 70-- 76?

**MARK PHELAN:** Yes, sir.

**HOLDCROFT:** OK. I guess that's all the questions I have.

**HUGHES:** That's right. Other questions? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chair Hughes, and thanks for being here. So you touched on something about the reasonable taxation, I imagine. So you're, you're pr-- you're a proponent of the bill, partly because you like the kind of certainty the regulatory structure it's creating. Does that sound right?

**MARK PHELAN:** Yes, sir. Yeah. Yeah.

**J. CAVANAUGH:** And you're not opposed to the tax because you think a 5% is reasonable?

**MARK PHELAN:** I do. Well, I mean, we're in 9 jurisdictions. They all vary significantly in terms of their tax rate. I think the proposed tax rate in this legislation is very cognizant of kind of the economics of the market, which, I don't think could support a rate that's higher than what's been proposed. And so I think it's a very reasonable rate.

**J. CAVANAUGH:** I guess, have 2 follow-up questions to that. One is you kind of hinted at Georgia has a different tax rate. Do you happen to know what that is?

**MARK PHELAN:** It's 10%.

**J. CAVANAUGH:** Theirs is 10%. And if this bill goes forward, would your position change if the tax rate were to be deviated from 5%?

**MARK PHELAN:** So, that's a great question. I think, Georgia's an interesting comparable because it's a skill game, but as I pointed out, it's a significantly much larger market. Their games also make about \$110 in gross revenue per day. The Nebraska Legislature's research group produced a paper on the skill market in Nebraska in December, and they estimated that the gross revenue per Nebraska skill game is about \$32. So their market's about three times bigger than ours. And so I think you have to take that into consideration when you tax a business. I would also point out that the Nebraska casino market is actually pretty good comparable to our market in that it's in Nebraska. That business pays a 20% tax rate on its revenue. But I would also add that that business benefits greatly from the advantages accrued because of that license. And, you know, I'll list them all very briefly, but they have a monopoly on gaming. We do not. There's 74 of us, and we all compete very, very aggressively with each other. They, allow four different gaming products, not just slot machines,

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what-- their, their games are called slot machines. They also do sports betting, table games like poker and blackjack and pari-mutuel betting. And they all get to do it under one roof, so if you have a broken game, you can walk 20ft down the the carpet and fix the game, whereas anyone in this room has to get into a car and drive. And a lot of our locations are a hundred miles away. So the cost structure is much higher for us. And finally, again, I refer to the report produced by the Nebraska Legislature. But our games, according to that report, make about \$32 per day. If you look at the War Horse Casino in Nebra-- in Lincoln, and just look at the racing commission for 2023, their machines generated \$350. So almost ten times more. So I do not think a rate that's greater than 5% would be particularly fair to the industry nor supported.

**J. CAVANAUGH:** Thank you.

**HUGHES:** Further questions. Oh, yep. Go ahead, Senator.

**HOLDCROFT:** Just just so I understand the cash flow. So as a distributor, you pay a \$5,000 flat fee.

**MARK PHELAN:** We do. Not yet, Senator, but we-- that's what's proposed.

**HOLDCROFT:** That would be under the proposal.

**MARK PHELAN:** Yes, sir.

**HOLDCROFT:** And the 5% is actually being paid by the operator.

**MARK PHELAN:** It would be probably-- sure. Yeah. It's not clear, but yeah, it would. That was what we--

**HOLDCROFT:** So how do you get-- I mean, you get your machines obviously from the manufacturer and then you distribute them. And how do you get compensated then for the machines that you're distributing?

**MARK PHELAN:** So I would purchase the machine. I would contract with, like, a bar owner. I put my machines in his his bar. He would give me, you know, say 200 square feet. The games would either make money or not. And then I would pay him some part of that revenue as as sort of the--

**HOLDCROFT:** But you're collecting the revenue then.

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**MARK PHELAN:** We actually collect the cash, we process it, and we just wire it to the, to the business owner.

**HOLDCROFT:** So the \$250 for a decal for the device, who's buying that?

**MARK PHELAN:** Currently we do. The operator. I'm sorry, the distributor in this state.

**HOLDCROFT:** And then the operator-- I'm sorry. I'm just trying to make sure I've got this straight. He also has to pay \$250.

**MARK PHELAN:** No, he does not. Of course he--

**HOLDCROFT:** OK. Thank you.

**MARK PHELAN:** Under current law.

**HOLDCROFT:** Well, yeah. I'm just going to go by what the Director provided. And he listed that would be about 1,611 operators that would-- the annual fee for them would be \$250. Maybe that's under the new bill. But--

**MARK PHELAN:** And maybe he meant the distributor. The distributor, typically the distributor pays that fee, that decal fee. It can be both, though, in some cases, so the no-- the, the nomenclature gets mixed up, mixed up.

**HOLDCROFT:** Maybe he's just trying to estimate the annual.

**MARK PHELAN:** Yeah.

**HUGHES:** So my, my question to follow up then with what Senator Hol-- I'm guessing that's the contract that the distributor has made with the operator. They-- in that contract you would lay out if either you pay that device fee or decal fee or the operator does, and how-- who's going to pay the ta-- I mean, that would-- right? Would be--

**MARK PHELAN:** That's all negotiable.

**HUGHES:** That would be all negotiable between, I would imagine, distributor and operator.

**MARK PHELAN:** OK.

**HUGHES:** OK. Other questions from the-- All right. Thank you for your testimony.

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**MARK PHELAN:** Thanks, Senator. Appreciate it.

**HUGHES:** Next proponent.

**JIM HAWES:** Good afternoon. My name is Jim Hawes, J-i-m H-a-w-e-s. And I'm testifying today on behalf of Winners Marketing Incorporated in support of AM2035 to LB685. I want to thank Senator Lowe and his staff for the hard work they put into it. We're very appreciative of that. I'm the director of operations and attorney for Winners Marketing, which manufactures and distributes skill games in a number of states, including Nebraska. So, we've seen what works for the industry and what does not. We're also in Georgia, as we've talked about some today. Winner supports the amendment to LB685 and has some suggestions for improving it. It is important to have certainty with regards to taxing cash device, devices, and the amendments give us that certainty. That's a great thing. Establishing a central server is also incredibly important to maintaining the integrity of the industry, so we applaud that as well. The amendments put in additional safeguards, such as requiring operators to verify the age of anyone requesting to play the cash device and prohibiting operators from charging a fee in return for prize payment. All very good things. The amendment provides the department with greater authority to administer the act, such as giving the department the ability to review all documents between distributors, manufacturers and operators, and providing for retail establishment locations standards. Again, these are great things for the industry. It's extremely important that distributors, manufacturers and operators are doing things the right way and being good corporate citizens. The amendments offer transparency to help assure Nebraskans that this is a legitimate industry. Now, there are a few things that we believe could improve the amendments. These include a mandatory percentage split of the net operating revenue, in this case 5% to the state and then split equally 47.5 and 47.5 with the operator and distributor. We also believe that the requirement that the locations generate at least 60% of the revenue from sources other than cash devices can be adjusted so that it attains the goal of prohibiting these mini casinos that we've talked about, but save the department significant resources that would be required to enforce such a requirement, and is more fair to legitimate business, businesses that may not have high volume sales, but rely on cash device revenue to keep the doors open. One idea, in addition to lowering this percentage, is to only have a percentage requirement for locations with more than four cash devices. Passed around to hand out, or handouts been passed out to further explains these proposed improvements and, and, and the reasoning behind them. I again, thank



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you, General Affairs Committee, for allowing me to provide testimony. And, I'll take questions if there are any.

**HUGHES:** All right. Thank you, Mr. Hawes. Questions for-- So you got off easy.

**JIM HAWES:** All right. I'll take it.

**HUGHES:** Thank you for coming.

**JIM HAWES:** Thank you.

**RYAN BOESEN:** Thank you everyone for your time. My name is Ryan Boeswen. And it's spelled B-o-e-s-e-n. I represent Bosselman Enterprises as a member of the Nebraska Petroleum Marketers and Convenience Store Operators.

**HUGHES:** Is it R-y-a-n or R-y--

**RYAN BOESEN:** Yeah. Yeah. Yeah. I'm sorry. R-y-a-n, yes.

**HUGHES:** Thank you.

**RYAN BOESEN:** The corporation that I-- the Nebraska corporation that I represent as well as the Bosselman family's intent in support of this bill was to create-- or the hopes of creating a fair and equitable kind of tax structure to legitimize the skill game industry and, hopefully, you know, make this a profitable and fair and equitable kind of business venture for everyone involved. And that's corporations like ourselves, as well as the little guys, the nonprofits of the state as well. Our concern is that this 5%, we feel is fair. Once this gets out of committee will it all of a sudden turn into a 20%? That's our-- that's our concern now there. So 5%, fair. Anything more, it's really-- it's going to hurt the small, the small guys more than anything. And any questions? We operate-- just to be clear we operate skill games in our convenience stores, restaurants and hotels located in the state of Nebraska. We're based out of Grand Island, Nebraska.

**HUGHES:** All right. Do we have questions for Mr. Boesen? Go ahead, Senator Raybould.

**RAYBOULD:** Do you typically have more than four devices in each of your different locations?

**RYAN BOESEN:** Well, that would depend on the square footage. The way that the rules are now for-- it depends on how large that the establishment is. We operate anywhere between two and twelve units per location, depending on how large. At one of our travel centers, for example, due to the square footage of being possibly 15,000 square feet, we have about 14 games there. Most of our convenience stores, they max out at four just due to the square footage constraints of the current rooms.

**RAYBOULD:** Okay. Thank you very much.

**RYAN BOESEN:** Thank you.

**HUGHES:** Other questions? All right. Thank you for coming in. Next proponent.

**RICH OTTO:** Thank you, Vice Chair Hughes and members of the General Affairs Committee. My name is Rich Otto, R-i-c-h O-t-t-o. I'm here on behalf of the Nebraska Hospitality Association, restaurants and hotels, and the Nebraska Grocery Industry Association, testifying in support of Senator Lowe's AM2035 to LB685. Last year we opposed LB685 as written, and would like to thank Senator Lowe for addressing concerns raised by the industry. As Senator Lowe stated in his opening, we do have concerns about the licensing language that he said he was going to bring additional language and another amendment to, and we have provided our concerns to his staff as well and appreciate their willingness to work on those. We are particularly pleased Senator Lowe kept oversight of the industry at the Department of Revenue, and that Nebraska is looking at establishing the central server. The central server is essential to allow the state to track dollars flowing in and out of these machines, legitimizing the industry and creating a fair and level playing field for all involved. Again, like we have stated, the Nebraska-- some have stated and the Nebraska Supreme Court, the Legislature, we have decided these are mechanical amut-- amusement devices. These are not gambling devices. A reasonable tax and structure will encourage this industry can grow at a sustainable rate, resulting in more tax collection and more tax relief. Throwing a gambling tax at this industry would not result in more revenue. It would put Nebraska on an island, freezing any new investment, driving out popular games, and be a disadvantage to small business. Again, we appreciate the work Senator Lowe, think this is a reasonable approach, and we're happy to-- hap-- I'm happy to answer any questions you may have.

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**HUGHES:** All right. Thank you, Mr. Otto. Questions? You got off easy also. Next proponent.

**CYNTHIA SMITH:** Hello.

**HUGHES:** Go ahead.

**CYNTHIA SMITH:** My name is Cynthia Smith. C-y-n-t-h-i-a, Smith, S-m-i-t-h. I'm just here to testify as a proponent of Senator Lowe's AM2035, LB685. I am the director of racing for Hastings Exposition and Racing. We're the only Quarter Horse racetrack here in the state of Nebraska. And I just wanted to just say we do see these games pretty much everywhere. And we we believe that these games are games of skill, and they should be-- have strict oversight and regulation, just like racetracks and casinos do. That's it.

**HUGHES:** All right.

**CYNTHIA SMITH:** Thank you.

**HUGHES:** Do we have questions for Ms. Smith? Thank you for making it down today. Next proponent. No one? All righty. Let us go to opponents, please.

**KENT ROBERT:** Oh. Low chair.

**HUGHES:** I know, you feel tiny.

**KENT ROBERT:** Yeah. Good afternoon, Senator Hughes. Members of the General Affairs Committee. My name is Kent Rogert, K-e-n-t R-o-g-e-r-t, and I'm here representing American Amusement as their registered lobbyist. American Amusements is a Nebraska born and based business and manufacturer of BankShot machines, the original skill device. To be clear, we are-- I'm testifying in opposition of what's written in the amendment today. Some of the ideas and concepts, are, are close to being OK with us. So I-- I'll start out. I'll just kind of go through the bill. In current law, dating back to 1969, we'd never license a location, but rather who owns the machines and calls them operators. Most machines are now owned by what we're defining here as a distributor. So I would suggest we likely need a new or better definition of an operator, a location where games are set, and or we change or expand the definition of distributor. Maybe that is what Senator Lowe is bringing in the amendment. Background checks. Many or most of these establishments have already undergone a background check and submitted fingerprints for a liquor license.

Could be amended to say if they have a liquor license in good standing, further background check is not required. We want to make sure that these background checks are not required annually, as they are not for liquor licenses. Several places in the bill list causes of denial for various license types, of these items. A violation of the Mechanical Amusement Device Tax Act. Our question would be, ever or any violation? Failure to pay taxes. Again, the question would be ever whatever, what is failure mean? Where they late? They make a mistake or miscalculation? Are they awaiting a court decision or a process on an appeal? Also a citation by Liquor Control Commission for a violation. For what? Most establishments, restaurants and bars, have had a violation for liquor, selling beer to a minor in a, you know, a compliance check. We suggest that you could add the words for illegal gambling activities to tighten that up or something like that. That is in the Keno statute. Also the, the, the section or that several lines on failure to demonstrate good character, honesty and integrity. Those are pretty subjective items. Let's see. I would suggest manufacturers and distributors don't have liquor license, and maybe this language is unnecessary. The \$5, \$5000 fee on the manufacturers is one thing, but some distributors are very small. And that fee could, could, you know, push them to sell to a larger op-- distributor. We think the, the central server is going to be a little more expensive than maybe we're estimating. We've, we've seen those cost anywhere in the low single digit million dollars and tens of thousands to hundreds of thousands to run per year. Also on the age verification requirements, people don't generally ask to play these games. They just sit down and play. Bars aren't generally checking ID of everyone who orders a drink. Many of, of course, are obviously of age or they're repeat customers. It's already under-- against the law to let underage persons play these games. So, I think that's probably covered. Also the section on income. There are small nonprofits that don't generate much income or any income. And so that might already put them out of being able to have these machines. I will answer any questions and be happy to work with Committee Council on amending the amendment.

**HUGHES:** OK. Questions for Mr. Rogert? Oh go ahead, Senator Raybould.

**RAYBOULD:** I think, Mr. Rogert, you answered the question I would have asked. Are you willing to work with Senator Lowe on some of your observations about changes and fine tuning?

**KENT ROBERT:** Yeah. Yeah, absolutely. Yep. And we agree with a lot of the things have been said previously.

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**RAYBOULD:** Terrific. Thank you.

**HUGHES:** So I have a question. The concern on the central database or whatever, collecting that information. The issue, I mean, the concern, I don't know, why do you guys care what it costs if it's-- are you concerned about the information it's collecting, or I mean, it sounds like other distributors are-- and other states have done this, and it's good information to have, I'm guessing.

**KENT ROBERT:** Yep.

**HUGHES:** Is there anything specific about it that you don't--

**KENT ROBERT:** Well, I think first of all, we would suggest that nobody who operates systems in the state should be the ones monitoring all the systems in the state. So if we have to contract with somebody that's out of the state, it just might be a little more money. And where is that that money coming from? Will it all of a sudden come back to the manufacturers or distributors for an ask for an increased fee or tax. And so we just want everybody to be on the awareness side of what, what we're doing, what we're getting into.

**HUGHES:** OK. But in terms of what that-- the information is being collected. That's not an issue.

**KENT ROBERT:** Nope. That's fine.

**HUGHES:** All right. I-- oh yes, Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chair. And thank you, Mr. Rogert, for being here. Could you elaborate a little bit on the part you talked about the nonprofits, and I'm not--

**KENT ROBERT:** Sure.

**J. CAVANAUGH:** Because Mr. Hawes had a similar point in his constructive criticisms.

**KENT ROBERT:** Yeah. I think if we we might need a, you know, some sort of delineation put in there. Say you've got an Eagles Club out in Senator Brewer's district perchance and there's, you know, their their daily revenue is ten guys that come in and buy three \$2 Bush Lights a-- you know a day. So that-- and they're really not generating any income. They're just trying to keep the lights on so they can keep their Eagles Club going. And so these machines are getting them a

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little extra income. But it may be the same amount of income that they're pulling in on the alcohol sales and or more. So definitely the 60% cap there could be-- it could make them ineligible to have one of-- some of these machines, and thus they could end up closing their doors.

**J. CAVANAUGH:** So would your suggestion be that-- have a different cap for extremely low volume on both sides?

**KENT ROBERT:** Potentially. We just want to make sure that the little guy gets carved out and held on to in the, in the amendment.

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

**HUGHES:** OK. Any other questions? Thank you.

**KENT ROBERT:** Thank you.

**HUGHES:** Next opponent.

**JOYCE FRIEDEN:** My name is Joyce Frieden. J-o-y-c-e, Frieden's F-r-i-e-d-e-n, and I am from Kearney. And I own a small amusement route with my husband, Greg. We've been doing this for over 30 years. Mostly started out doing dart boards, pool tables, pinball machines, and then gradually got into the skill games. And I am against this amendment, even though John Lowe is my senator. I listened to government-- Governor Pillen, in a state of the state address, and he was talking about how as government we need to be less strict, we need to reduce regulations and bureaucracy. And he talked about Operation Clean Out the closets, where we tried to get rid of all these mandates that at needless cost to business. You talked about how the centers need to partner with people to get government out of the way and focus on its core functions again. And I don't think this amendment is helping anybody. First off, as far as the background check, I mean, if we were working with young kids, if I was a coach, I can see the background checks. But for us to have to get a background check, pay for it every year, even our locations. If you read the print, they say all operators will have to get background checks. That means all my locations are going to go-- have to go through that every year. And I don't really think that's fair to them. And they're not criminals. It's almost like you are reaching out, thinking anybody that has an amusement game is a criminal, and that is not the case. There may be a few bad apples out in our industry that are creating all the problems. The people that are actually following the rules, you're going to put

all these strict mandates on us that are going to put us out of business. And then the Tax Commissioner has the power to deny anybody a license from a manufacturer to a distributor to an operator. If he doesn't like your character, he can say you don't get a license. And how is that fair? Then you also talk about if they get a liquor infraction. One of my locations gets caught selling to a minor, the state can take away their skill game license. That's what it says in there. And if you look at the Liquor Commission on how many violations there are, and there's quite a few. So I don't know if the Tax Commissioner, he could go [INAUDIBLE] get rid of all the skill games if he really wanted to, according to the language in this bill. And then it talks about in the bill that when they lose their license, there's no appeal process. So you lose your license for forever. So once you lose your cash device license, you can't get it back. Then there's also the \$1,000 a day fine. So if your machine gets caught without a sticker on it, which I've had stickers being pulled off my machines, it's \$1,000 a day, and then I could lose my cash device license and basically put me out of business. And then about the IDing everybody that is going to be not feasible. I mean, most of our accounts are short staffed. They're lucky to have help in the first place. So they're going to have to watch everybody going back to play a machine. That is just going to be impossible to do. And I mean, we've never had problems with minors playing. Usually they don't have cash with them even to play them. But to me, it would make more sense if when they went to cash in the ticket, then they would have to show their ID and then you could verify them. Just like if you're going to buy a drink, then you show your ID.

**HUGHES:** You're on the red. Sorry. Any questions for Ms. Frieden?

**JOYCE FRIEDEN:** And also, I was going to say I don't like the central server idea either. I just think that's going to cost millions of dollars to the state taxpayers. And if you pass all these other things, most of us operators are going to be out of business and you're not going to have machines to put into your central server.

**HUGHES:** Senator Raybould.

**RAYBOULD:** That would have been my question. But were there other concerns that you wanted to detail? But I think you hit your list, right?

**JOYCE FRIEDEN:** Yeah. And I feel like, you know, I know Senator Lowe must have worked with a lot of people in the industry, according to

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other people that have talked. But I don't think the small operator, the, the hometown person that's been around for 30 years was in the conversation.

**HUGHES:** Other questions? Go ahead.

**RAYBOULD:** Ms. Frieden, did you talk-- I don't remember you saying how many locations do you have?

**JOYCE FRIEDEN:** 50 maybe. I think we have as far as the skill games, we maybe have 50 machines out, which is really small potatoes compared to the guy that had 800 of them out. So-- and I don't know, I mean, us-- [INAUDIBLE] which sounds a little unfair. OK. He can maybe pay \$5,000 for a distributor license. But, you know, that's kind of me having to pay \$5,000 too seems a little bit unfair.

**RAYBOULD:** So how many-- how many games do you typically-- game-- gaming devices do you have at each location that you own?

**JOYCE FRIEDEN:** Typically we probably had 2.

**RAYBOULD:** 2.

**JOYCE FRIEDEN:** And we do a lot of the other games too. You know, we have darts and pool and jukeboxes and we're not just in the state to be skill game operators to go after the quick buck. We've been here 30 years doing this day in and day out.

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

**HUGHES:** Other questions. Go ahead, Senator Cavanaugh.

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

**JOYCE FRIEDEN:** Yes.

**J. CAVANAUGH:** So you said you have about 50 devices.

**JOYCE FRIEDEN:** Um-hum.

**J. CAVANAUGH:** So you fall in the category-- Senator Holdcroft keeps referencing this, and I got it in my pile of papers here-- but about 16 or, no, 76 distributors in the state. Is that?



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**JOYCE FRIEDEN:** Yes, we're considered a distributor. I thought we were considered an operator, but I got on my little license, and it does say I'm a distributor.

**J. CAVANAUGH:** So you'd be subject to the \$5,000.

**JOYCE FRIEDEN:** Correct.

**J. CAVANAUGH:** So in terms of constructive criticism, which is like my favorite thing to talk about, would you suggest or be amenable to like a threshold if you-- if you have a certain number of devices in the field, you'd be subject to a different?

**JOYCE FRIEDEN:** Like more of a tiered system?

**J. CAVANAUGH:** Yeah. For the fee.

**JOYCE FRIEDEN:** I think that would be a lot more fair than, you know, making everybody having to pay \$5,000. I mean, because it's really not an equal playing field, I mean.

**J. CAVANAUGH:** So as long as you're here and you've got your more than 5 minutes or 3 minutes, do you have a suggestion of where the tier, where to tier it?

**JOYCE FRIEDEN:** I don't-- people might get mad at me if I-- I mean.

**J. CAVANAUGH:** Somewhere above 50.

**JOYCE FRIEDEN:** I don't know. I would say, you know, maybe \$500 up to \$5,000, you know, create a range of-- and, you know, I was also talking about the operators have to pay a \$250 fee too, to get a license. So any location I have also has to pay \$250 for a license.

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

**JOYCE FRIEDEN:** Yep.

**HUGHES:** Other questions for Ms. Frieden? I had one thing that you mentioned right off that, the background check. And then I think in a prior testimony, Mr. Rogert suggested. So I'm assuming a lot of these places, they have a liquor license [INAUDIBLE].

**JOYCE FRIEDEN:** Correct. So I don't know where the background check really--

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**HUGHES:** Right. But would you be-- he suggested that if you've already got the liquor license, which has required a background check, if, if that verbiage was changed to-- that would count as that. I mean, I'm assuming you would be OK with that then.

**JOYCE FRIEDEN:** Right, yeah, I think I would pass a background check if passed otherwise.

**HUGHES:** Right. But like instead of having to do it again if that--

**JOYCE FRIEDEN:** I don't know. Do you really have to do it every year?

**HUGHES:** So that's [INAUDIBLE] I don't, yeah.

**JOYCE FRIEDEN:** I mean that seems a little redundant.

**HUGHES:** Right. And then can you just exactly verbalize why you don't like the central server issue?

**JOYCE FRIEDEN:** I just think it's a lot of money. And then, you know, we're going to have to pay all the taxes. I just don't think there's going to be-- as a small operator, I don't think there's going to be enough money left in it to really want me to even put skill games out.

**HUGHES:** So prior testimony had said that central server-- and I don't think they have a number yet, but it would take-- it would just take a percent of whatever money is already coming in. But do you have an issue with the information that it's collecting?

**JOYCE FRIEDEN:** I don't have a-- not really per se. I mean, I just think the expense of it. I mean--

**HUGHES:** But even though we don't exactly know what the expense is.

**JOYCE FRIEDEN:** And I would say millions of dollars it's going to take to put a central server in. I mean, you're talking about hooking up a lot of games to this. You're going to talk about staff, maintenance.

**HUGHES:** I don't know. Other states it doesn't seem like that high, but who knows. So I guess that's something to figure out but.

**JOYCE FRIEDEN:** But we have 6,000 machines compared to Georgia. What, what did he say, 30-some thousand, 32,000,

**HUGHES:** Right, right.

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**JOYCE FRIEDEN:** I mean--

**HUGHES:** Yeah. Anyway, OK. Anything else? Thank you for coming in. Appreciate it. Next opponent.

**GREG FRIEDEN:** My name is Greg Frieden, and I'm Joyce's husband. We own Fun Time Amusement out of Kearney. We've been in business 30 years, and we've done pool, darts, all that kind of stuff. And then we started doing skill games when they came along and everything. Lately, we have gotten so much pressure from competition that's come in from the skill games. And with all this regulation that's going on, we've got all the stuff in LB685, lots of concerns with the regulation of it and then the extra expense. We're being considered-- we've been considered, I guess, distributors, and now we've got the extra \$5,000 that we've got to pay, and we're, we're small. One thing that's, that's not been mentioned yet and it's not part of LB685, but it relates to the whole thing is, is that the Department of Revenue is-- has audited operators on their skill game revenue. And there's an additional tax that's not part of this, but we're facing that also. And they want to charge distributors a lease tax on their half of the income. So-- and that's going to be equivalent to sales tax. So we're looking at another 7% of half of what we make on skill games that's going to be on top of all this. And our \$5,000 and we're small. It's just Joyce and I. And there's other operators that are small. And, and what all this is going to do if it all goes through is it's going to squeeze out the little guy. This supports the bigger companies from out of state coming in. And, and nobody's going to want to get in this business. It's small. It's local. And it's, it's, it's just turning into big business. We've had to change, you know, a lot of it's good competition, but, you know, we're having to go out and, and buy equipment that otherwise we would not have to, not just skill games but other equipment. And now we're looking at possibly having to buy redemption machines and put them out in our locations, very, very expensive. We spent more this last year on equipment than we made on our skill games. And, and we have to keep updating and stay current with new stuff or these other companies are going to, you know, take over. And it's-- this is all just more regulation and more cost and less reason that we'd even want to stay in business and do this so.

**HUGHES:** Thank you. Questions for Mr. Frieden? I think your wife got all the questions. Thank you for coming in.

**GREG FRIEDEN:** Thank you.

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**HUGHES:** Next opponent.

**JOHN FOX:** John, John Fox, J-o-h-n F-o-x. Thank you, members of the committee. Start with presently the lawsuit under, under file, American Amusements v. the Department of Revenue, again, this case will determine the legality of the department's currently conjured position regarding sales tax and cash devices as Greg Frieden just described. So, yeah, in my opinion, AM235 [SIC] doesn't help Nebraska. It hurts as much of it is unnecessary. We've heard casino bosses compare BankShot in form and revenue and now under regulation with, with their casino games at the racetracks. It, first of all, games of chance make a lot more money. By example, South Dakota with their VLT market in 2023 to 600% more than the cash devices in Nebraska, despite South Dakota being half the population. Last, cash devices return 50% of the money right back to Nebraska businesses, charities, nonprofits, fraternal, veterans organization that makes cash devices and comparable with all-- with all comparisons. The hearing regulations aren't prudent. They're punitive, failed to produce a book or records. It has been in violation of rickor-- Liquor Control Act failed by clear and convincing evidence of the applicant's qualification. The department has the authority to approve all locations. A-- made a material misrepresentation or material fact; ID all players; annual background checks. Seems the rules are a black heart, rife with the ability to be abused by the Department of Revenue. You'll hear and have heard from the big out-of-state corporations these are just fine. And that's just great because unlike Nebraska-born companies, they can pick up their toys, head down the highway and resurrect themselves, come back as a new name or a new corporate entity. You also heard a gaggle of lobbyist-- lobbyists with questionable reading diligence say, this is all fine. They don't, but they don't have to live with the consequences of too much power in too few hands. Ask the little guy as we see it. The homegrown Nebraska companies don't have lawyers or teams of accountants at beck and call to produce a document or record or preclude someone to make a misrepresentation. The coin machine companies are shop owners, barkeeps, nonprofits, fraternal that are hurt by these unnecessary rules. The, the-- these are the people that you sit next to in church. They deserve to be better-- treated better than a convict on parole. I'll also note we never needed these rules before the casino boss said we do.

**HUGHES:** OK. Thank you for your testimony. Questions for Mr. Fox? I have just--

**JOHN FOX:** Thank you.

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**HUGHES:** I have a question. You're with American Amusements so you are a distributor.

**JOHN FOX:** I'm a manufacturer.

**HUGHES:** You're a manufacturer. You're one of the four.

**JOHN FOX:** I'm--

**HUGHES:** That's right. You do-- you're a BankShot guy.

**JOHN FOX:** Yes, ma'am.

**HUGHES:** That's right.

**JOHN FOX:** Yes, Senator.

**HUGHES:** Sorry. I remember that. OK. That's all I have. Thank you. Next opponent.

**ANDY DOBEL:** I was about to say good morning. It's not. My name is Andy Dobel, D-o-b-e-l. I am with Greater America Distributing. I will start with explaining the industry does not use the same language as the current regulations or the bill. I am an actual distributor. What this calls a distributor is an operator. What this calls an operator is a location. So I will probably fumble over my terms, I apologize. I don't know how it got construed from the industry to the regs, but please ask if I'm not making any sense. As a distributor in this industry, we sell pinball games, jukeboxes, dart boards, vending machines, and skill games. And so I'm here, as the president of GAD, to try and speak hopefully for some of my customers who couldn't have made it or don't want to get up there and talk about it. I'm gonna skip a lot of the things I had written down, because you've already heard about it. You don't need to hear it again. But I do think when the information was pulled, Excel mentioned that they were talked to and it was discussed with them what, what would work in this situation. The largest operator of games based in the state, wholly in the state, was ignored, as were the other wholly Nebraska-based companies. And I think information from them would have been very helpful. The-- it was mentioned, I believe by Joyce, the \$5,000 could be a major issue. While they have 50 games, there are people in this room that have less than 10. So \$5,000 is a very large chunk of that money. The money these things make, if it was an average of \$32 a day, like we heard is \$11,680 machine, and that gets split with the location. And so a guy that runs 4 games, that leaves very little for

him to make. These games are expensive. John's games run \$4,000, \$5,000. The other games run anywhere from \$9,000 to \$13,000. These are not cheap to, to pick up and run. That's part of what I exist for is we service the machines, we provide the tech support, and we provide financing. My customers are some of the hardest working people you'll ever meet. They might be a little rough around the edges, but I think they deserve a little bit better than being run over by the large corporations. That's all I got. Thank you.

**HUGHES:** Thanks for coming in, Mr. Dobel. Questions for him? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice chair. Thank you for being here, Mr. Dobel. Can you expound on the different distinction between distributor, operator and location?

**ANDY DOBEL:** Yes. And again, it's not just in the bill; it's in the actual regs. What this refers to as an operator is a location. That's going to be your bar, restaurant, convenience store, whatever. The operator, and they're called an operator because they're the ones that actually run the game. They're the ones that collect the money. They're the ones that repair the game, provide the parts, the know-how, the knowledge. And as a distributor, I'm the one that distributes the game. I am a classic middleman, if you will. I buy the game from the manufacturer, I sell it to the operator, and I get my markup in there. But the reason I exist is because we have the knowledge to repair the games. We provide the tech support. We keep parts on hand. We keep games on hand. When you get an account, you typically can't wait a month and a half for something to get shipped in the state and place it. When you get the account, they would expect you there yesterday. And so I keep inventory of games on hand. And it's not just skill games, but that is why we're here. So we'll try and focus on that. So somebody can come pick it up the next day and, and have it on the location, assuming they have their, their stickers. They can call me from Broken Bow and tell me I need to pick up two games. Can you give me the serial number and the board number so that they can send it in to the DOR to get their, their stamp and get the process started. And we can deliver it, they can pick it up; but, but time is of the essence in, in this industry.

**J. CAVANAUGH:** So I guess I'm trying to understand. So you're-- are we conflating your version of operator and distributor or are we conflating operator and location?

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**ANDY DOBEL:** I don't exist in this regulation.

**J. CAVANAUGH:** Oh.

**ANDY DOBEL:** I guess that's where it really starts. As a distributor, I am not mentioned in this anywhere. But I don't know what else to call myself. We are a distributor in the-- in the language of the amusement industry and in the vending industry, which is the two industries I'm in.

**J. CAVANAUGH:** So you're not one of the 76 distributors

**ANDY DOBEL:** I'm not.

**J. CAVANAUGH:** OK. So you don't pay \$5,000 under the statute?

**ANDY DOBEL:** I will have to, because I have games in my location. And to have a skill game in your location, period, you have to be registered as a distributor. I do every year. I do not operate the games. I do not run a single game, but I have games in my warehouse. And because I have games in my warehouse, I have to register as a distributor.

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

**ANDY DOBEL:** You're welcome.

**HUGHES:** Other questions for Mr. Dobel? Go ahead, Senator Brewer.

**BREWER:** Thank you. All right, I'm going back to the handout that Brian Rocky gave us here. So it shows operators at 1,611. But you're saying those are locations, not operators.

**ANDY DOBEL:** Those would be the bars and restaurants and what? Yeah, in, in the industry, those are referred to as locations.

**BREWER:** OK. So if we would call them locations and then the number of decals/devices, 5,852, which comes out to about 4 per location if we divide it, roughly [INAUDIBLE].

**ANDY DOBEL:** Give or take, yeah.

**BREWER:** All right. So 1,611. I'm just-- if you fall through the cracks and you're not one of the 76, how many others do we have falling through the cracks and aren't part of that number that are on this

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sheet as distributors, just trying to kind of understand how it all works?

**ANDY DOBEL:** To my knowledge, in this state, I am the only traditional distributor of skill games. There are other distributors of amusement devices. But I am not an expert. But from what I hear, we're the only ones that actually sell the games to anybody outside of their own internal company. There are-- there are companies out there that are distributors of amusement devices, and then they have an operating wing and they just move the 2 between each other.

**BREWER:** And did you build this binder?

**ANDY DOBEL:** I did not.

**HUGHES:** [INAUDIBLE]

**J. CAVANAUGH:** [INAUDIBLE]

**BREWER:** OK. You're not getting any credit.

**ANDY DOBEL:** I don't want to steal anything.

**HUGHES:** Other questions from Mr. Dobel? I have a question.

**ANDY DOBEL:** OK.

**HUGHES:** So one of your-- one of your concerns is how things are labeled, but OK. The \$5,000, so in your opinion, maybe a tiered scale is a better solution for that because as a distributor/operator, if I only have 40 of these versus somebody that's got 800, maybe that \$5,000 doesn't fall. What about the 5%?

**ANDY DOBEL:** If--

**HUGHES:** Just all the things, what about the central database? What about like what are we opposing here completely?

**ANDY DOBEL:** Central server I have no problem with.

**HUGHES:** OK.

**ANDY DOBEL:** As long as it-- that, that doesn't end up coming back at--

**HUGHES:** Right.



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**ANDY DOBEL:** --the people trying to operate the game. I think it's pretty much a standard across the areas. I am worried about that 5% holding at 5%. If you look at a South Dakota, for example, when they introduced the games, they were at 5 to 10%, and they're now at 50%. I don't know how anybody's in business up there. What they do operate is 40 to 50 years old. And when it breaks, they're going to be in trouble. So it's-- I worry about us staying at 5 I guess.

**HUGHES:** OK, so the biggest concern is that \$5,000.

**ANDY DOBEL:** It is definitely among the top. The 5% staying at 5% would probably be my biggest concern.

**HUGHES:** Yeah, but that's a what if [INAUDIBLE]

**ANDY DOBEL:** It is.

**HUGHES:** OK. Thank you.

**ANDY DOBEL:** Thank you.

**HUGHES:** Any other questions? Thanks for coming in. Next opponent.

**RYAN KRUSE:** Senators, thanks for having me today. My name is Ryan Kruse, last name is K-r-u-s-e. I represent Nebraska Technical Services, current time, the longest standing amusement operator.

**HUGHES:** OK. Another Ryan. Spell how you spell Ryan.

**RYAN KRUSE:** R-y-a-n, apologies.

**HUGHES:** Some people spell that differently. Go ahead.

**RYAN KRUSE:** Apologies. Nebraska Technical Services, we've been around for 40 years, operating in many of the locations that we're talking about here. In a moment, my mother Marilyn, 77-year-old mother who works 60 hours a week at our company, will come up and talk a little bit more about the impact on small business and from her reference. But what I do want to talk about just real quickly as far as our company was, first of all, there's been a lot of talk about the operator-distributor relationship. I won't get into that. That's already been addressed. But somewhere along the line, I do want to emphasize that the relationship between our companies, right, we are operators and our locations is misunderstood. And I would say that largely because in the last several months there has been what I would

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consider an arbitrary and random sales tax audit that showed up, which was contrary to the last 55 years of the way the occupation tax had been addressed in this state. The-- that sales tax audit was only delivered to some operators, which I would ask you to investigate a bit. Also, there was a LR98 that took place in the last several months and with, respectfully, Senator Lowe, I do want to acknowledge this bill-- this amendment is a lot closer to where it should be, and I appreciate all of that hard work. However, in LR98, you mentioned industry leaders. Well, industry leaders were not, to my knowledge, not invited to speak at that-- in that forum. And if the company that's been around the longest for 40 years was never asked to provide input, I would-- I would question the fairness of the information that was received through that process. You've already heard about the negative impact on locations, right? And this is not just nonprofits. We have a number of nonprofits. I would argue a number of them probably are going to have a hard time hitting that 60, 60% threshold, which has already been addressed. But the burden really comes down to the regulation. Between added personnel, reconstruction costs, there's a lot of unseen things in this amendment that are going to put even more pressure on the locations, and the locations are the core of our business. At the end of the day, when we are still here as a Nebraska company and this thing potentially goes south, or maybe it's overregulated or overtaxed and that revenue's not there, these large out-of-state companies are going to pull up camp and go somewhere else. So I ask you to strongly consider the impact that this is having, not just on our business as operators, but the 98% of the people that we deal with, which are going to be small businesses. Lastly, I just want to say, how much money are we really making? I encourage you, take a look at the houses we live in, the cars we drive. It's all very, very easy to find. I think some of those numbers are inflated, not to mention the fact that probably \$40 to \$50 million of equipment is currently on the street. This stuff is not cheap. Thank you, Senators.

**HUGHES:** Thank you, Mr. Kruse. Questions for Mr. Kruse? All right. Thanks for coming in. Appreciate it. Next opponent. Could we have anybody, like, as you filter down in, if we've got a lot, raise your hand if you're still going to-- if you're going to talk today. Oh, not that many. So maybe, you guys come down and fill the front just so we can get things rolling. All right, go ahead. Thanks for coming in.

**MARILYN KRUSE:** Hi, I'm Marilyn Kruse. That's Marilyn, last name is Kruse, K-r-u-s-e.

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**HUGHES:** And please spell Marilyn.

**MARILYN KRUSE:** M-a-r-i-l-y-n.

**HUGHES:** OK. Thank you.

**MARILYN KRUSE:** I am one of the co-owners of Nebraska Technical Services. And as my son indicated, yes, we started 40 years ago and it was a one Pac-Man machine, never realizing what it was all going to turn into. We have dart-- we have darts, we have pool, pinball, we have ATMs, we have security systems now, and the skill games. We have, like I said, we're a Nebraska company. We have 50 employees, all live in Nebraska and have. We have-- since the skill games come out, we have readily complied with all your rules, regulations, the-- getting the \$250 decal for each game and all the mountains of paperwork that that entails. I liked when we just had the \$35 decals for the dart boards, pinball, jukeboxes where you just put it on the game. Now you have to fill out paperwork after paperwork to get the right game that has been certified. Look at the board numbers, serial numbers, the cabinet numbers and everything, and then the location that it's going to and all that has to be sent in, along with the form 57 that the location owner has to fill out-- location owner has filled out. All that has to be okayed before it's brought back, and then we can put it on the game and take it to the location. We have complied with, like I say, all the rules and regulations. You'll note that we've had a very clear, good record. We haven't had any violations as far as any of our games have been still. We have a good relationship with our inspector. We work together, and that's the way we would like to continue it. It just seems to me that I don't know, you know, first, the skill games in the first year, it was able to have the \$35 decal. OK. Then they realized how largely popular they were and it was raised to the \$250 decal. OK, we went along with that. And it just seems there's just more and more and more. And in the last they even talked about what they were going to do with other skill games like pinball machines, dart boards, pool tables, you know, what's next? And it's basically like they've said before, it's the small businesses are our customers, small business with-- and they don't have the, the, the money, the manpower to take care of all these regulations that you may want to have. There has to be a better way. OK.

**HUGHES:** Thank you. Do we have questions for Ms. Kruse? I'll just have one. How many of these kind of skill games do you guys have then?

**MARILYN KRUSE:** We have about 600-and-some right now.

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**HUGHES:** 600.

**MARILYN KRUSE:** I believe that's correct.

**HUGHES:** I'll put 600-ish anyway.

**MARILYN KRUSE:** Ish, yes.

**HUGHES:** Thanks for coming in. We appreciate it.

**MARILYN KRUSE:** Thank you.

**HUGHES:** All right. Next opponent.

**BRIAN HALAC:** Good afternoon, ladies and gentlemen. My name is Brian Halac, B-r-i-a-n H-a-l-a-c. I'm the pinball and jukebox repair guy, and also the owner of Meat Frog Entertainment, LLC. Just got a quick story. Basically I fix up pinballs and stuff in people's houses. That's, that's what I do. I literally left a job a few years ago to tackle it by myself to get out of the 9 to 5, to give a little more time to my family and so on and so forth. Well, after I took off, I ended up getting a knock on my door from Department of Revenue. And the reason I'm bringing this up-- this isn't a sympathy thing-- I-- this is actually a story. I ended up, two years after I got into it, I got a, say, knock on the door from Department of Revenue saying I need to audit you. It's like, OK, fine. Here's all my stuff. I'm not trying to hide, not trying to run. [INAUDIBLE] be a couple thousand dollars difference, whatever. Well, they came back to me with, like, a \$60,000 sales tax thing that they told me I owe. I was like, really? So you guys are going to give me this, 5 or 6 years of 60, you know, \$60,000 sales tax that I didn't even know I was supposed to collect. So they want to collect it. They don't care about my scenario. They didn't know that I-- they don't care about me running or anything like that. They just want their money. It's like, OK, whatever. You know, this is what it is. But for a guy like me, I don't have much. So that's-- it's pretty detrimental to my living. So the reason why I'm-- so I digress. So now I have a tax burden, right? So then I got into the skill games about a couple years ago, and we tried 6, 7 now locations. They suck. They didn't even pay their sales tax stamps, which they raised on us. So that really made it very unequitable for me. So then we finally got to 2 locations to put our \$80,000 worth of machines in, you know, because these things are expensive, like everyone says. So you get to that point, it's like, OK, now this is making me this much money. Now, with the new regulations that Lowe has in this bill, if I don't pay

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that burden by the end of the year, then I can lose my license to have all these machines. Therefore, you're going to bankrupt the Meat Frog and you're going to bankrupt The Pinball Guy. And I'm not saying this to woe is me, whatever. I'm saying this is because there's other people out here that have employees, cars, health insurance, all that stuff, stuff to worry about where I don't. You know, I can go live in a paper box if I need to. These people don't. They have employees and everybody to work with. So for you guys to regulate us like we're a bunch of criminals by doing these, cavity checks on, on our crime records every year just because-- just because we have to come out and do all this paperwork and stuff. I don't have anybody. I don't have assistants, anybody. So I have to go do this personally. I have to go do all this. I don't have employees to go do all this stuff. So then I have to worry about one of my locations losing their liquor license. If he loses that liquor license, I'm asked out. What do I do? If the other location that I have doesn't so I'm just basically looking to lose everything I have because of the regulations on how we get regulation. I don't care about all your fees and stuff at this time. I mean, it does. That \$5,000, I don't know what I'm going to do there. But all the rest of the stuff, this is going to put me out of business just because of the regulations. I'm a Nebraskan. I've been in Nebraska all my life. And for everybody to get up here and let all these guys that are coming in from the state just come in in droves with all their money, we don't care; yeah, this sounds great. No, it doesn't. This is a crock.

**HUGHES:** You're out of time. Do we have questions for Mr. Halac? I have one. So you are considered on-- you're considered a distributor then.

**BRIAN HALAC:** [INAUDIBLE] the bill, technically, I'm an operator.

**HUGHES:** On the bill, but I'm going to say distributor/operator.

**BRIAN HALAC:** Yes.

**HUGHES:** And how many devices do you have?

**BRIAN HALAC:** I have about. 15.

**HUGHES:** 15.

**BRIAN HALAC:** I'm small potatoes.

**HUGHES:** So what do you think about the sliding scale for the fee?

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**BRIAN HALAC:** For the \$5,000 fee?

**HUGHES:** Right.

**BRIAN HALAC:** Well, I mean, that'd be a tough one to do, because you have to make it equitable for every, every solution. So it depends on how you guys structure it.

**HUGHES:** OK.

**BRIAN HALAC:** I'm not totally against any, you know, tax bills at all, but the, the regulations along with the taxes along with the sales tax that you're trying to throw.

**HUGHES:** Well, like in my opinion, the sales tax on what a machine makes is a fairer tax, a fairer way of doing it than just the flat rate which has been done in the past.

**BRIAN HALAC:** Right.

**HUGHES:** So therefore if you had, like you mentioned, a couple locations didn't even make enough to cover the sticker. So then the sales tax turned in would be almost nothing--

**BRIAN HALAC:** Correct.

**HUGHES:** --because they didn't make any. So, you know, and then versus the one out, I don't know, along the interstate that's bringing in however much a night that, you know, those to me should be handled differently. And that kind of helps do that.

**BRIAN HALAC:** No, that is correct.

**HUGHES:** OK.

**BRIAN HALAC:** That would be correct. It'd be a better situation.

**HUGHES:** You're more-- the cavity search thing had me laugh because I was like, I didn't know I was on Judiciary. I'm thankful I wasn't but-- so it's some of those that you feel are onerous. Clearly the yearly, like, whatever, background check and--

**BRIAN HALAC:** Yes.

**HUGHES:** OK.

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**BRIAN HALAC:** Yes.

**HUGHES:** All right. Well, thank you for coming in and bringing your testimony.

**BRIAN HALAC:** Thank you very much for listening. Thank you very much. Have a good evening.

**HUGHES:** Next opponent.

**JARVIS NETTLES:** Hello, everybody. My name is Jarvis Nettles. I'm from Omaha, Nebraska, District 10. I am a--

**HUGHES:** Spell your name, please.

**JARVIS NETTLES:** J-a-r-v-i-s, last name is Nettles.

**HUGHES:** You gotta spell that. It's not for me. It's for--

**JARVIS NETTLES:** N as in Nancy-e-t-t-l-e-s.

**HUGHES:** Thank you. OK. Go ahead.

**JARVIS NETTLES:** I am another small distributor/operator. I have 15 games, probably 2 locations, one of those locations being Blondo Bingo. I'm very concerned about the regulations of this. A lot of things don't make any sense to me, especially for Blondo Bingo, a nonprofit. Diversity of merchandise. There's also in the bill the level of business activity being conducted in the space. As you know, bingo, depending on the number of nonprofits they have, they're already tabbed as far as how many days they can have and how many hours. They're regulated on how many employees they have. So I'm, I'm very afraid that something like this being passed or how it sits and how it reads right now. Having a discussion with Blondo Bingo, they're out. They don't, don't want anything to do with this if they're going to be regulated that hard. I mean, they sell snacks, pop, pickle cards, things of that nature. I mean, I think this is-- it's very heavy-handed for, for guys like that that don't have the budget to have someone calculating what 60% and what is that, 60% of snacks and pop? So I think that that needs to go. I'm one of those, those small ben-- small businesses I think this will kill me. This will kill my entrepreneurial foray. I mean, I can't compete with a lot of the bigger and most of these companies, I have no problem with them, competing and beating me straight up. But losing because of regulation, I think that sucks. I think that sucks for a lot of small

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Nebraska businesses that will go out of business because we can't deal with the regulation part that those guys have advantage, they can do it. I don't-- I don't have money to speak with lobbyists. I don't-- I don't get to get my opinion. Unless I'm coming here speaking with you guys today, I'm not heard. And that-- I'm not the only one. There's a lot of people like that. And I'm really afraid for people like that are going to lose something they helped create and build. These are not new companies. They just didn't come out of nowhere. These guys have been doing this for generations. Family members have been doing this, and I think it'd be a really crappy way to have that stop is because of regulation and having something that should be protecting us, the government, should not be putting these people out of business. Not sure why the casino, other than they have a lot more money for lobbyists, but we got to be careful with listening to those guys. These are the same guys that said they're going to give us \$80 to \$100 million in property tax relief, and they put up \$13 million. To me, that's an airball. So let's be very careful with who we're listening to and the reason why they want some of these regulations in this bill. We need help. For someone that's a small Nebraskan, help, please. Thank you.

**HUGHES:** Wait wait wait. Got to see if there's any questions.

**JARVIS NETTLES:** Yeah.

**HUGHES:** Do we have any questions for Mr. Nettles? Oh, come on. Just kidding. I have one question. What was the distributor fee/operator fee, whatever? We're proposing this to be \$5,000. What, what was it? Like, what is it right now?

**JARVIS NETTLES:** It's-- there was no fees for becoming a distributor.

**HUGHES:** Uh-huh.

**JARVIS NETTLES:** But we just paid the \$250 [INAUDIBLE].

**HUGHES:** It's just the \$250 for [INAUDIBLE]

**JARVIS NETTLES:** Correct.

**HUGHES:** OK. All right. That's good.

**JARVIS NETTLES:** Thank you.



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**HUGHES:** Thanks for coming in. Blondo Bingo, sure to do that. All right. Name?

**DENNIS MENG:** My name is Dennis Meng, D-e-n-n-i-s M-e-n-g, from Alliance, Nebraska.

**HUGHES:** Come a long way.

**DENNIS MENG:** I do own a bar in Alliance. So I started as a location. Alliance is kind of out there in the middle of the Panhandle. And I took over a route doing pinball machines, pool tables, jukeboxes at locations up in the northern Panhandle there. And so I'm kind of in a unique position where I am a distributor of the 76, and I have about 21 locations that I operate jukeboxes, skill games, all that sort of stuff in there. The locations do not need any more burden put on them from this bill. I mean, it's, it's tough to make a living in this type of business as far as a restaurant, bar, that kind of thing. They don't need-- they've already done the background checks. They've already been to their local authority, approved to open or apply for the liquor license, then you do the State Patrol fingerprints, you do the background check, you do an interview, then you send it to the Liquor Commission for approval. All that's done, it's required to do it once to get a liquor license. For it to be done again, to do it cash devices that you have in there, in your location that, you know, it's something that brings people into your location. They sit there. It may hold them there for a while because they don't have, you know, they're going to go home, watch TV. They might want to sit there and play a skill game, might want to listen to music on a jukebox, shoot a game of pool, something like that. You know, keeps, keeps those people in their locations. The terminology for this bill has never been right for what we do. Like I say, a location is a location and you're dealing with about 76 operators. What you guys call distributors really makes no sense as far as business is concerned, how that's termed. I think if we're moving forward here with some sort of bill, I really like the, the idea of this being, you know, regulated so that we can know that it's a good thing to spend all this money on these skill games. They do cost a lot to buy these, put them out, and then you've got breakdown fees, maintenance, stuff like that, parts. There's always something going wrong with them. Got to fix them. Always money going out that isn't, you know, coming in as good as anybody would think it is. So it does make it tough. And, you know, I would just like to see that if we're going to push forward with a bill, that the bill actually reflects what we do as Nebraskans working in Nebraska and that it's all correct so we don't have to keep coming

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down here every year to go through this type of thing, because it's a long ways from Alliance.

**HUGHES:** Yeah. Thank you for driving in. Do we have questions for Mr. Meng? Senator Brewer.

**BREWER:** So right now, you have how many machines out that you?

**DENNIS MENG:** Right about 60- some, 68 machines, I believe.

**BREWER:** And it's distributor along what counties? Box Butte.

**DENNIS MENG:** Box Butte.

**BREWER:** Dawes.

**DENNIS MENG:** Dawes, Sheridan--

**BREWER:** Sheridan.

**DENNIS MENG:** --and Keith.

**BREWER:** OK. Thank you.

**DENNIS MENG:** And I do pay property taxes in every one of those counties on the value of these machines.

**HUGHES:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chair. Thanks for making the trip. You mentioned cash device. What did you mean by that?

**DENNIS MENG:** Cash device, skill games.

**J. CAVANAUGH:** So that's you call it the same thing.

**DENNIS MENG:** A cash device.

**J. CAVANAUGH:** OK. I was-- a few people have said that. I've been meaning to ask somebody what it means.

**DENNIS MENG:** I think it was in the previous law it was called a cash device or we, we applied for a cash device license, which is the \$250 decal that used to be \$35. The \$5,000 thing, I know you've asked a lot of people that, I don't know if there can be any kind of tier to that. I mean, we're going from a zero license right now, zero fee license to

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\$250 for the location, which I know this kind of legislation right here would probably wipe out half of my 20 locations as far as not wanting to deal with skill games, cash devices.

**J. CAVANAUGH:** And of those 20, you said might wipe out half of your 20 locations so 10 of them.

**DENNIS MENG:** Yes.

**J. CAVANAUGH:** And do you have any idea of how much those generate in revenue for the state or in this [INAUDIBLE] you're talking about?

**DENNIS MENG:** There's areas, I mean, I've got locations that do \$100 a week. I've got locations that do several hundred dollars a week. I've got locations that are really good. I've got, you know, ones that you almost consider not putting a \$250 stamp on 3 machines, because that's \$750. Does it generate that much on top of the cost of jumping in, in the pickup and driving to Crawford, which is 60 miles away, to, to fix something that isn't making any money anyway? I mean, it, it varies. Some locations, they do good. I know my veterans clubs, they really seem to thrive. You know, those older people that have served that are members out there are the greatest guys that you could ever just sit and-- sit and talk to, really enjoy that. And that's, that's another thing is that, you know, these big companies that all came in and say, oh yeah, we want this. They see that 5% at the end. And yeah, that looks good for everything, you know, as long as it stays at 5%. But that can go anywhere as soon as it gets to-- out of this committee.

**J. CAVANAUGH:** Can I-- you mentioned veterans clubs. We talked a little bit about nonprofits having some problem meeting the income threshold requirements. Are you worried about that for your veterans clubs?

**DENNIS MENG:** Well, yeah, the way that's worded with the 60%, 40%, I mean, I don't know how you would track that anyway. Would you track that with, with sales tax based off of your, you know, what you're paying in on sales tax on your food revenue or your alcohol sales or whatever you're selling? Every location that I have has a liquor license, so I know they have to submit, you know, sales tax, approve what they sell as far as in their business every day. They do that monthly. And once they have to start doing all this other stuff because they really don't have any involvement with these cash devices other than they have an employee that, that somebody brings up a voucher that they printed out of a device and they redeem that voucher for cash. That's pretty much the only thing that the location

does with these things. What you consider a distributor, which I consider an operator, we go in and we're, we're about the only people that need to deal with the state as far as submitting any kind of taxes or anything like that, because we're the ones going in and physically taking the money out of the machines. So we can hold that. If there's a 5% sales tax, we can hold that. You're dealing with 70, 70 some distributors, instead of dealing with a thousand locations that don't have time to sit there and do this stuff every month, every quarter, track it, to do any of that kind of stuff. I mean, their, their responsibilities that they have already are pretty hard in this day and age, especially with employees. If you got minimum wage is \$15 an hour now, plus all the stuff associated with that, you know, your contributions as far as an employer and having these employees, it just keeps making it tougher and tougher to keep a place open and keep people employed. It really does.

**J. CAVANAUGH:** Thank you.

**HUGHES:** Other questions for Mr. Meng? Thanks for coming all the way here.

**DENNIS MENG:** You bet.

**HUGHES:** Next opponent.

**TODD CARPENTER:** How are we?

**HUGHES:** Name first.

**TODD CARPENTER:** My name is Todd Carpenter, T-o-d-d C-a-r-p-e-n-t-e-r. I had a great speech. I don't want to bother you with that, but. So some, some questions that we had. How many? I'd like to know how many proponents have Nebraska driver's licenses is one of the things that people are the first ones that come up here to talk. Thank you. So the next thing is, is, distributor/operator. We have that language is messed up.

**HUGHES:** Yeah.

**TODD CARPENTER:** Let's-- I am a what is classified as a distributor. I'm really an operator. It's how it should be. It needs to be redefined. The, the distributors are the, the makers of BankShot. They're, they're the manufacturer. They're, they're the actual distributors of the games. We are operators. And then Sunny's Bar is a location. So that's how it should be written in the law. Clar--

clarify that all up. We've had that-- it's been an issue all day. You know, why do we need the \$5,000 in the first place? I guess that was one of the questions. Do that-- does, does Revenue need 5 grand for every, every year? I believe Revenue is sitting pretty good, to be honest with you. And I know that, areas like, well, we could do a tier system and it is not fair for playing field for the locals, for the small guy, for-- now, if you're a big company, you know, you can-- you can brush off 5 grand because you got 800, 900, 1,500 games. They have a ton. So 5 grand is not a big deal for, for big companies. It does hurt the littler guys, the smaller Nebraskan people. The central server, Senator Hughes always asks, you know, yeah, do I have an issue with, with the information that's gathered? I do not. What my problem is, is the central server is very expensive. We don't know that. But we do know that it is expensive, and the expenses has to come from somewhere. So is the state of Nebraska going to eat that money? Is-- are we going to eat? How does that work? We can collect the money as sales tax, just like we do with regular sales tax. If, if, if, if, if we had games out and let's say the games did \$50,000 net a month. OK. So we would, just like any other sales tax, we would collect the \$50,000 from the, from the location and we would write down and we would send that check to the state every month, just like sales tax is. You pay on the 25th for last month's sales tax. It would be a lot simpler and it would, would not cost any money. So that's just throwing that out there. So if you would-- we would collect the money, the distributors or the operators, what we'd say the 74 of us, would collect the money and then we would-- we would cut a check every month to the state of Nebraska for the 5%, which I would-- I would love if it would stay 5%. I really would. It was-- I'm just more scared that when it gets out of here, things get pretty, pretty-- like running the gauntlet is what I would call it once this-- if this bill proceeds. That at the end of the day, we don't know what's going to be in the bill, is what I mean. Is, is it going to be 5? Is it going to be 10? Is it going to be 15? Is it gross? Is it net? You know, once the language gets all done, the time it gets through all the Final Readings. That's what scares a lot of us is that. Senator Lowe does have-- I agree with Senator Lowe or Chairman-- Senator. A lot of things that he, he does is good is one is, the background checks, that is for-- sorry, do I need to quit talking?

**HUGHES:** No. Oh, yeah, you're out of time. Sorry. I was not paying attention, was I?

**TODD CARPENTER:** OK. It's all right.

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**HUGHES:** I'm sorry. I let you talk longer than you're supposed to. Senator Raybould.

**RAYBOULD:** Could you finish your statement concerning background checks?

**TODD CARPENTER:** OK, so if we would-- the background checks, which I agree with Senator Lowe on this. Most all my locations are liquor licensed locations. So they've already gone through the background checks. They've, they've been fingerprinted. They've been checked out. They, they, they know the laws and they, they kind of-- they have to-- we know who they are. And they-- the state-- the, the Liquor Commission uses the State Patrol as their arm as their enforcement. So they have power and control to, to regulate anything that goes on in that establishment. So these games that went to Senator Lowe's last year when we were here for LB685 was that these games are everywhere and, and not in-- and whether they pop up in a game room, which I am against that and, and there's other locations that I thought that you could throw in there, that every location should have a liquor license if you want these games just because of the control. Do we need more of that regulation? The, the, the 60% threshold, is, is honest to God, I believe in there to eliminate the, the little guy. It's to, to take out the, the person who can't make it-- bank-- your nonprofits, your, your bingo parlors. Maybe, I don't know of too many other people that would probably fall underneath that, but it would wipe out quite a few. And of course, it doesn't hurt the large ones that are in truckstops, convenience stores, doesn't, doesn't, doesn't affect them at all. It really does hurt the little person. Other than that, I-- the central server, you know, as I said, just for the cost. I was more concerned about that. The cost, if it was going to come back on us, is, hey, I've heard anywhere from, from this number to \$20 million. And, you know, how is this going to go out? Well, they're just going to take a percentage. It's going to cost this. Jeez, and we're worried about collecting the information. We're-- I'm not. You know, but we can figure out a way to collect tax I think a better way but.

**HUGHES:** Other questions for Mr. Carpenter?

**TODD CARPENTER:** All right.

**HUGHES:** I have one. How many games? So you're a distributor/operator.

**TODD CARPENTER:** Sure.

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**HUGHES:** How many games do you have?

**TODD CARPENTER:** Jeez, 220.

**HUGHES:** Mid-size?

**TODD CARPENTER:** Sure. I would say that.

**HUGHES:** All right. Thanks for coming in and testifying.

**TODD CARPENTER:** Appreciate it. Appreciate.

**HUGHES:** Next opponent. Ooh, none. How about neutral capacity? One, none. All right. Senator Lowe, back up to the front.

**LOWE:** Ouch. Hot seat. First of all, I'd like to thank everyone who showed up today, whether you're a proponent or an opponent. I remember the days during COVID when there was nobody in here. It was hard to judge what a bill is going to do. We had no clue. And I really worry about those days if that ever comes back again. We had a great discussion today, especially from the opponents. They brought out their views and we listened. There's a 5% tax on this. I have been known to pull my own bills if they get changed. I will not let that number go up. I swear to you on that. This bill will die if it does. As far as the other things, I'm willing to listen and see what works. By taking control of this now and doing it right with some of the feedback that has been said here today, you don't have to come back from Alliance or from Kearney again next year. I appreciate the, the Frieden and, Joyce and Greg, Mr. Fox coming and testifying, the Kruses, the Nettles and listening to the smaller operators that showed up today. I knew this wasn't a finished product when I brought it, but it was better. And I think everybody learned a little bit more this time than, than last time. And we learned a whole lot last year with this bill. We're going to try to make this as good as we can get and make it fair for everybody and try not to put businesses out of business. That is not my goal. I also don't want to raise taxes. But I do need-- we do need to tax more than what we're taxing now. So with that, I end my testimony and thank you again for being here and driving down from Alliance and, and across the state. And there are people here that didn't testify because I'm sure they came from all over the state, and I'm sure they wanted to break my kneecaps. And maybe you still want to break my kneecaps, but I-- but I'm listening. So thank you.

**HUGHES:** All right, so that ends-- oh, do you have a question?

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**BREWER:** Can I ask you a question?

**HUGHES:** Yes, you can ask a question. Senator Brewer.

**LOWE:** You can.

**HUGHES:** I'm not telling you no.

**BREWER:** All right. All right. I think-- I wish we could have had some of the later ones early, because they helped to draw a picture where you could better understand what was happening. And, and I think as we moved on and we understood the difference between location and operators and manufacturers and distributors, because I was spinning pretty hard for a while there. And it was hard to get it to line up to where it made sense. The \$5,000, you know, so where we're at now with, with \$250 and the \$35, so it's basically \$285 per-- is that kind of where we're at? And we're looking at this morphing into a, depending on where you're at, a \$250 or a \$5,000. I can see why they're concerned. If the 5 doesn't stay where it's at, that's going to be obviously a reason to be concerned because the government is never-- government never increases the amount that they tax people, of course. And then the \$5,000 is kind of a cookie cutter that doesn't fit everywhere. I mean, I can see if you're big enough to where that, that wouldn't take a terrible gouge out of you. But to figure out a fair amount, as we tier down to the-- to the ones that are much smaller and have less resources, I mean, that's where the concern, I think comes from, shutting things down because we just tax so hard they got nothing left. I mean, is that kind of how you see it? So I think we, we take some of this most recent 4 or 5 that spoke and, and take a look at some of that to figure out, you know, where we can find a fair middle ground on this. A lot of-- a lot of logic came with some of that.

**LOWE:** We'll do the math.

**BREWER:** All right. Thank you.

**HUGHES:** Anybody else? And I should mention that there were comments of 48 opponents, 0 proponents, and 0 neutral so.

**LOWE:** Guess this is not on the consent agenda.

**HUGHES:** Anyway. All right. Well, thank you all for coming here and listening, appreciate it. I know a-- kind of a crazy weather day again. So thank you.



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