

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee January 24, 2022

BRIESE: Well, we'll get started here. Welcome to the General Affairs Committee. My name is Tom Briese. I'm the senator for District 41. I'm the Chair of this committee and will be conducting today's hearings. We're here today for the purpose of conducting four bill hearings. If you wish to testify in person on any of the matters before us, we ask that you fill out one of the green sheets of paper-- excuse me, white sheets of paper. The white sheets are located on either side of the room. If you're here and you do not wish to testify, but you do wish to state your support or opposition for any of the matters before us, we ask that you fill out one of the sign-in sheets. If you do testify, we ask that you begin your testimony by stating and spelling your name for the record, which is very important for our Transcribers Office. The order of proceedings is that the introducers will be given an opportunity to open. Then we will hear the proponents, opponents, and neutral testimony. We ask that you listen very carefully to try not to be repetitive. We do use the light system in the General, General Affairs Committee. First of all, can I have a show of hands how many folks are going to testify on these first couple of bills? OK, thank you. Each testifier will be afforded three minutes to testify. When the yellow light comes on, you have one minute remaining, and we ask that you begin concluding your remarks. When the red light comes on, your time is expired and we will open up the committee to any questions they may have of you. At this time, I'd like to encourage everyone to turn off or silence any cell phones or electronic devices, anything that makes noise. The General Affairs Committee is a committee that is equipped for electronics, so you may see members referencing their iPads, iPhones, or other electronic devices. I can assure you they're just researching the matters before us. If you have a prepared statement and exhibit or anything you would like distributed to the committee members, we ask that you provide 12 copies to our committee clerk. If you don't have 12 copies, don't worry, provide what you have to the committee clerk. And with that, we'll proceed to the introduction of members beginning on my right.

ARCH: John Arch, District 14, Papillion-La Vista in Sarpy County.

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

LOWE: John Lowe, District 37, southeast half of Buffalo County.

WAYNE: Justin Wayne, District 13.

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

BRIESE: Thank you. And I would like to introduce Laurie Holman, legal counsel for the committee, to my right; on the far left, Alex DeGarmo, the committee clerk. And at this time, I'd like to introduce our pages for the day, if you guys could stand up. We have Payton Larson, a political science and English major at UNL, and we have Joseph Schafer, a history major at UNL. Thank you guys for being here. And with that, I will turn over the proceedings to Vice Chairman John Lowe, being as I have the first couple of bills to introduce.

LOWE: The pressure's on now. We'll begin on the LB876. Senator Briese.

BRIESE: Thank you and good afternoon, Vice Chairman Lowe and fellow members of the General Affairs Committee. I'm Tom Briese, T-o-m B-r-i-e-s-e, and I represent District 41. I'm here today to introduce LB876, a bill to further refine our new Racetrack Gaming Act. I, I-- first of all, I just want to say I believe that when 70 percent of Nebraskans voted for this proposal to establish-- essentially establish racetrack casinos, I think that they also indicated that they would want a well-regulated, financially sound racetrack casino industry, and that should always be our goal as well. And so during the interim, interim, my staff and I have worked extensively with various stakeholders with the goal of establishing some additional parameters for the voter-approved racetrack casinos. We've landed on a variety of items, which are found in LB876. And I do note that many folks have approached us about some additional tweaks to what we have proposed and many of those merit some consideration. So we have also drafted an amendment, AM1566, which I believe has been passed out or going to be passed out to the committee, which I will briefly discuss at the end of the-- at the end of this. And AM56-- AM1566 is really an effort to lay out some additional suggestions that we've received in the event anyone who wants to provide input on those items. But for now, here is what is proposed in LB876. LB876 would increase the minimum number of race days required to get a racing license from one to five race days per year by 2026 for racetracks currently in operation. New tracks would have to ramp up to that amount, being required to conduct at least one race day per year for the first three years of operation. This really is a provision to ensure that the racing industry is brought along as we develop the gaming industry here in Nebraska. The bill would increase the one-time gaming operator fee from \$1 million to \$5 million and would shorten

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the duration of the license from 20 years down to 5 years. The increased amount is, in reality, more consistent with fees from some, some of the neighboring jurisdictions, some of our neighboring states. The bill creates a self-exclusion mechanism for anyone who wants to add themselves to the list, to that self-exclusion list to help them stop gambling. They would be prohibited from going into casinos and the casinos are responsible for ensuring that they are kept out. This issue was addressed in last year's gambling bill, but it was left with the commission. This would put those parameter-- those provisions in statute. The bill sets forth new requirements in statute for anyone who wants to apply to build a new racetrack and casino in Nebraska. These new requirements would include evidence that the proposed racetrack is located a minimum of a 50-mile radius in any direction from a currently existing racetrack with a casino. This really is a provision that I think is consistent with what Nebraskans are looking for. It can help to ensure the economic viability of these businesses and I, and I don't think the public wants to see a racetrack at every I-80 casino exchange. And again, the goal should be a healthy, viable industry and oversaturation, I believe, detracts from that goal. New applications of all applicants would also have to submit a market assessment that includes a feasibility study and a sustainability study of both the casino market and horse racing market in the state. They must also submit the anticipated impact on state or city infrastructure, including water use, electricity, natural gas, roads, public safety impact, including police and fire departments, and zoning and initial planning approval from the city nearest to the site of the proposed track. Other sections of the bill increase the penalties for crimes in these sections from a Class I misdemeanor to a Class IV felony and that provision really was at the suggestion of some in the industry. New language is added to allow parimutuel wagers to be made within the designated sports wagering areas within casinos. And some language is added that was requested by the director of the commission to increase the amount of administrative penalties that can be assessed by the commission against a licensed casino operator if it becomes necessary to do so and has some additional language to assist the commission with the collection of taxes and other administrative procedures. This bill, finally, adds certain documents between the commission and casino operators to the list of things that are exempt from Nebraska public records law, but it also makes clear that some records relative to the industry are still subject to the act. Again, I think this bill contains provisions that will help ensure a viable casino industry and a viable horse-racing industry. I further think these provisions are consistent with Nebraska values,

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but several good suggestions have been brought forth since the bill was dropped and AM50-- AM1566 addresses some of them. AM1566 would increase the number of race days even further, to 15 by 2031, and that's really an effort to further promote the industry. It would increase the 50-mile distance proposed in the bill to 75, but also exempt counties with over 100,000 population. And this, this might recognize or could help recognize the concern that geographical limits might be appropriate, might be great in out-state Nebraska, but that population density should also perhaps be a consideration in our more urban areas. It increases the license term back to 20 years, but with an annual review. It allows payments of the license fee, the initial license fee to be made over five years and it requires the commission to undertake a racing and gaming analysis more extensive and thorough than what was provided for in the original bill, a market analysis and feasibility study that can help them in their decision-making process. The provisions in this amendment really are presented for discussion and to hear testimony relative to some of these issues. And although not in the amendment, you know, some have suggested a moratorium on new racetrack casinos and so that-- if folks have ideas on that, I'd welcome their discussion on that today also. So I assume we're going to hear a lot of good testimony today, a lot of good ideas, and look forward to hearing those concerns and ideas and suggestions and we can go from there. I'd be happy to try to answer any questions.

LOWE: Thank you, Senator Briese. Are there any questions? Yes, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chairman Lowe. Thank you, Senator Briese. I appreciate the hard work of you and your staff have put on this. I know this is a-- creating a whole new regulatory structure for a whole new industry is extremely difficult, so I really do appreciate the hard work you've done on this. And I haven't quite synthesized your amendment yet, but a couple of things that jumped out at me in the original bill-- well, the, the market assessment that's on page 9, it requires a market assessment, but it doesn't really-- does it require any action in reference to like that it has to have a particular finding or anything along those lines or is it just saying, you need to submit an assessment that says this is the state of the market when you're applying?

BRIESE: I'd say that's a fair assessment of the market assessment, yes.

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J. CAVANAUGH: That's-- that was my reading of it and that's the intention then, is just to say when you're applying for it, the commission wants-- it would have that information at their disposal?

BRIESE: In the green copy, but what is proposed in the amendment is probably something that I would suggest we ought to take a hard look at, something that the commission undertakes. It's a little more thorough and really looks at the market conditions in Nebraska and assesses the economic viability of, of additional casinos.

J. CAVANAUGH: A statewide assessment every five years is what you're talking about.

BRIESE: Yes.

J. CAVANAUGH: OK.

BRIESE: And that, that's a proposal. I would, you know, I would suggest maybe that assessment ought to be done before new licenses are issued. But anyway, that's something we can discuss.

J. CAVANAUGH: And then-- I don't want to-- I know there's a lot of other people who will probably have better answers to my questions or are better equipped to answer them, but in terms of the penalty increases, basically we have an across the board on these penalties that are increasing from a Class I misdemeanor to a felony. And I'm just curious, some of them-- I guess there's fraud and those sorts of things. Clearly there's a higher moral culpability there and a higher risk to society, but there's certain things, like on page 13, Section 13 subsection (2), "a person who participates in a game of chance when such person is younger than twenty-one years of age at the time of participation is guilty of a Class IV felony." I guess this may be more of a comment than a question, but that seems to be different in terms of the level of the risk to casinos, the risk to society--

BRIESE: Sure.

J. CAVANAUGH: --and everything as opposed to the fraud ones. And so I'm just wondering if there may be a possibility of not having a blanket, across-the-board increase to Class I-- or Class IV felonies, but maybe more of a discerning approach to which penalties--

BRIESE: Sure, I, I, I think that's a great observation and I don't disagree with your assessment there.

J. CAVANAUGH: Thank you, Senator Briese.

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LOWE: Thank you, Senator Cavanaugh. Senator Groene.

GROENE: Thank you, Vice Chair. So the Racing Commission still has final say. I mean, they-- somebody follows all these rules, does everything, they go to church on Sunday and everything--

BRIESE: Yeah, I--

GROENE: --the Racing Commission can say no without--

BRIESE: Yeah, that's--

GROENE: --without--

BRIESE: --what's it's-- yeah.

GROENE: --having to give a declared reason?

BRIESE: I, I would say that is a fair assessment.

GROENE: All right. Thank you.

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

J. CAVANAUGH: I have a follow-up question about the amendment, I guess. The set-- the change between 50 and 75, is there a rationale that maybe that-- you said you talked with some industry folks about that. Is that an industry question I should ask them or--

BRIESE: I've heard a considerable amount of concern about 50 and, you know, 50 was landed on partly because of the simulcasting provisions, but also partly because the currently existing six racetracks, they average about 50 miles apart. You know, that's not a scientific reason for putting 50 out there, but I thought 50 was a starting point. Heard some additional concerns about 50 and the 75 is probably a response to those concerns. As I think about 50 miles in rural areas, that seems to be a saturation point that maybe we wouldn't want to have in place.

J. CAVANAUGH: And then, as you noted, there's a, a carve-out or just a difference in how we would approach counties over 100,000-- did I remember-- right, 100,000.

BRIESE: Yes.

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J. CAVANAUGH: And just I, I mean, I know Douglas County and, and Lancaster County are 100,000. Is Sarpy County over 100,000?

BRIESE: That's my, that's my understanding.

J. CAVANAUGH: OK. Thank you.

BRIESE: And again, that's, that's for discussion purposes. That's to be thrown out there because we've heard a lot of, a lot of folks talking about that and--

J. CAVANAUGH: Thank you.

LOWE: Thank you, Senator Cavanaugh. Any other questions? Seeing-- yeah, Senator Arch.

ARCH: Just one question of clarification. Thank you, Senator Briese. The, the, the 100,000 population, it exempts them from certain requirements. Specifically, do you-- can you--

BRIESE: It would exempt them-- the intent was perhaps to exempt them simply from the mileage limitation.

ARCH: OK.

BRIESE: The 50.

ARCH: That, that one.

BRIESE: Yes.

ARCH: OK.

BRIESE: Yes, that, that's the intent of the--

ARCH: But need to meet all the others?

BRIESE: Right.

ARCH: OK, thank you.

LOWE: Thank you, Senator Arch. Senator Briese, with the exemption then, could they have three or four within that county then--

BRIESE: That--

LOWE: --or more?

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BRIESE: That's a great point. I think-- I see legal counsel shaking her head no. I think I'll agree with her.

LOWE: OK. [LAUGHTER] Thank you. Thank you, Senator Briese. All right. Sticking around for close?

BRIESE: You bet.

LOWE: All right.

BRIESE: OK, thank you.

LOWE: Thank you. All right, we'll now go to proponents.

LANCE MORGAN: I've done this before, but I need to say my name and address and spell?

LOWE: Yeah.

LANCE MORGAN: OK. My name is Lance Morgan and--

LOWE: Spell it, please.

LANCE MORGAN: L-a-n-c-e M-o-r-g-a-n. I didn't know there was going to be a test. And I'm from Winnebago, Nebraska. I have several things to hand out, too, so if I can get some help with that, that would be helpful. If I could hand out this and this, these two things first, please? All right, so I'm here to speak on behalf of the-- as a proponent and I really appreciate the amendment of the, the \$5 million fee being over time. You know, we're making large capital investments. And I wish it stated \$1 million, I suppose, but I think, I think I understand the \$5 (million). And if you could pay it over time, then I think it's a lot easier to handle. We didn't want to turn it into something that actually limited the scale of how big of a casino we could build at once. And I think that's particularly an issue for the smaller-scale facilities where it represents a larger portion of the capital investment. But I'm handing out something that talks about the 50-mile radius. I think I understand it might be 75 now. I think that we have proposed a facility in Norfolk and that would make that probably impossible, and I guess that's your decision to make. But what I really want to talk about was the, the exclusion for the counties of 100,000. The, the law itself only require-- allows one casino per county, and we're developing the one in Douglas and in Lancaster County, and the one in Douglas County is about a mile from the Sarpy County border in Omaha. It's in south, in the south Omaha area of Douglas County. And there's been some discussion

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about putting one in Bellevue and this would probably authorize that. And what concerns me is that the Omaha is a hyper-competitive market right now. There are three casinos run by international corporations across the river and the Ponca Tribe has a modest facility in Carter Lake right now. And if we were to authorize one in-- or if the state would authorize one in Sarpy County, it would make it-- we would have to cut our capital investment in Omaha by about \$100 million. It would lop off 300 jobs. It would take \$3.75 million in taxes from the city of Omaha. And depending where it was in Sarpy County, it would lop off probably about \$1.5 million in taxes to Lancaster County. And the thing about it is, usually when people say this, they, they make it so that-- well, maybe there's some additional revenue that could come in, but something you need to understand-- and if I could pass this out? There's-- on this article, it's a highlighted provision on the next-- on, on the second page of it. Something to understand is that there is-- the Ponca Tribe are essentially waiting to see what happens here. If the Omaha facility is cut in, cut in half, well, then that would make a much larger casino viable in Carter Lake, Iowa. This article says they want to build on what, 120,000 square feet, 2,000 machines, and 50 table games, making it the largest casino in Nebraska, and that entity would not pay any taxes related to-- any Nebraska ordinated taxes. And so if you authorize Sarpy County, what, what's, what-- the unintended side effect, in my opinion, is that you will end up with actually less tax money because the entities won't be able to compete with the international companies in Iowa and they won't be able to compete on the-- tax wise with the tribal facility in Carter Lake.

LOWE: Thank you, Mr. Morgan. Are there any questions? Senator Groene.

GROENE: Thank you. How many states do you operate in or-- just Iowa and Nebraska?

LANCE MORGAN: Well, Ho-Chunk Inc., the corporation itself, operates in dozens of states and several countries, but from a gaming standpoint, Nebraska and Iowa.

GROENE: Do other states have casinos every 50 miles? I think in Kansas, Iowa, Color-- even Colorado, it's common sense you don't-- they've got what--

LANCE MORGAN: I think-- go ahead.

GROENE: They've got just a, just a few places in Colorado.
[INAUDIBLE] casinos--

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LANCE MORGAN: Well, in Colorado, they're only in a small town, one or two places up in the mountains. I think it's more of a touristy oriented thing. But if you were to allow-- authorize too many casinos in one area, you'd get oversaturation and then you end up with much smaller facilities. What-- our goal is to create a powerhouse to compete with the entities in Iowa. They've, they've been there for 25 years and, and they're going to be tough to compete with as, as it is and we're proposing spending several hundred million dollars-- \$500 million between the two. And if we have to scale back because of compet-- competitive concerns in, in, in Sarpy County, then we won't be able to make that large-scale investment and then these big companies--

GROENE: You said that earlier--

LANCE MORGAN: Yeah.

GROENE: --but I think of Dodge City, Kansas. I travel to that area. I stay in Dodge City. I go to the casino, eat there. There's nobody in it. There isn't another casino within 3-- 200 miles. So how do the people of Nebraska expect to have a casino with the same population sparsity that-- to build these casinos and make them operate?

LANCE MORGAN: I think there's probably room somewhere, maybe in western Nebraska, for a few more.

GROENE: More than one?

LANCE MORGAN: But eastern Nebraska is-- well, maybe one or two. It's a, it's a pretty big area of the state--

GROENE: Yeah, but nobody lives there.

LANCE MORGAN: --but there's not a lot of population. And you might be able to do what Iowa did to us, to Wyoming or Colorado, by having some markets there. But the eastern side of the state is already-- you're not to think-- you've got to think about it as the total market between the tribes and then the, the Iowa casinos. And it's already very, very saturated and it's going to be very competitive for us to get into that market as it is and creating another competitor before we even get started is going to be problematic.

GROENE: OK. So you don't see more-- in that market area, the gambling dollars available will probably have a place to go.

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LANCE MORGAN: It, it's not going to grow the market. What you're really going to do is it drive-- incentivize some of the business to go to non-Nebraska taxpaying entities, which is Iowa and then the tribe. And that-- the whole point of this was called Keep The Money In Nebraska and that is the, that is-- almost surely will happen.

GROENE: Your market study, if we build one in Omaha, are we going to draw business dollar, gambling dollars from Iowa or you're going to create new people that are just--

LANCE MORGAN: Well, what will happen is you will keep the money from Nebraska from going to Iowa. If you have multiple facilities, you might have maybe 5 percent growth in the market just because of convenience factors, but that will be siphoned off by the facility in Carter Lake, though.

GROENE: Thank you.

LANCE MORGAN: So you actually end up negative.

LOWE: Thank you, Senator Groene. Senator Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chairman, and thank you for being here. I'm just looking at the one with a bunch of circles.

LANCE MORGAN: That's the 50-mile radius.

J. CAVANAUGH: OK, 50-mile, and you were talking about wanting to build one in Norfolk and how 75 would prevent that, but I'm just looking at the 50-mile radius from Columbus, looks like it includes Norfolk already.

LANCE MORGAN: Yeah, so it, it was already going to be difficult when-- we actually purchased some property in Norfolk, which my board is questioning me on right now, especially with this radius thing, but I think that I told them that we don't get to decide, so.

J. CAVANAUGH: And then-- well, I mean, would-- I mean, 75 would go-- be much larger circles, but-- OK and then on this other one, the 50-mile radius key points, what are these numbers? The Horsemen's-- or Horseshoe, 1,878; Ameristar, 1,688--

LANCE MORGAN: Those are the number of slot machines there in each of the facilities. And what we're proposing is somewhere around 1,700 for Omaha, but if you have a Sarpy County facility, that will drop to 1,000 or less and the Ponca one would appro-- which is the Prairie

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Flower, you should add a zero to that 200, you know, and that's the article--

J. CAVANAUGH: And that would be--

LANCE MORGAN: --that I provided to you.

J. CAVANAUGH: OK, so that would be a substantial ten times growth in the size of that facility.

LANCE MORGAN: But if the Omaha comes out with a strong facility, then, then that will limit the ability to finance a major expansion there. I think that in the future, there might be some room for a Sarpy County facility at some stage of this, but I think that you've got to build a strong competitor now to sort of keep the competition at bay.

J. CAVANAUGH: So in terms of regulations versus-- so I kind of just told everybody my position on this, as I'm-- Senator Briese kind of said, is we're looking for a well-regulated industry here. So my position is well regulated does not mean anti-competitive, right? And so the question is, what is, what is the regulation that makes the industry strong, but doesn't-- isn't purposefully anti-competitive? And so I guess my question to you is, do you think that there should be more of the teeth around the market study kind of aspect of saying whether-- having the, the commission take into consideration whether or not the market can support the proposal?

LANCE MORGAN: I think that's pretty important. You-- to our, to our east, Iowa has been-- has evolved this over 25 years and they are incredibly strategic if they add more facilities. The last one, they've actually-- the last two, one was in-- near Sioux Falls, South Dakota. It wouldn't take away from any of the other existing facilities and it would draw money from South Dakota. And so the big-- their big concern is the ability to not hurt their existing industry partners. And so I think what we really need to be is strategic in how we approach it and then have strong regulations around that to make sure that we don't hurt ourselves. There are some jurisdictions that have expanded, you know, without strategic thought, and it's-- what you end up with is a bunch of, a bunch of weak competitors. And, and we're not going it-- we're not in isolation here. We are fighting against very strong companies across the river.

J. CAVANAUGH: Thank you.

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

ARCH: Thank you. We haven't talked much about horse racing as, as a, as a piece of that. What's your, what's your opinion on number of days and-- that you, that you're seeing in these amendments now?

LANCE MORGAN: I think it's important that-- we're going to have someone from the horsemen testify, so I want to put words in their mouth, but I think it's important that we add the number of days so that we just don't have-- you know, somebody goes to the trouble of building one track and then they don't really care about horse racing. And I think that's something we've promoted all along is that this-- there's a rural element of development to this for-- in terms of breeding and racing and, and, and training the horses and feeding them and I think that that's a real thing. In Nebraska, it used to be a thriving industry, and creating another income stream in rural Nebraska, I think, would be pretty important. You know, we, we run a large farming operation ourselves and it would be great to have another income source.

ARCH: Yeah, I would, I would-- I don't know if you agree or not, but the ballot initiative had the horse racing tied to the casino where there's horse racing and so forth. Maybe Iowa started the same way with, with their votes. They're certainly not there now, right?

LANCE MORGAN: Yes.

ARCH: So how-- I guess that, that integral tie of horse racing and casino, I guess, how, how strong do we tie those together?

LANCE MORGAN: I think that when we did that, we wanted Nebraskans to feel comfortable that there wouldn't be a casino sort of at every I-80 interchange exit, and there were some limitations in simulcasting to 50 miles and that sort of thing. And so we thought it would be a reasonable thing to, to present to the public, when they're voting on it, that this was not going to be an open-ended sort of expansion, and you know, this immediately goes against that in the Sarpy County area. And usually in these jur-- in the jurisdictions, over time, they sort of loosen up and become a little bit more acceptable, but I think it's probably a little ahead of the curve to just immediately go to open ex-- expansion like this.

ARCH: Thank you.

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LOWE: Are there any other questions? The Carter Lake facility, you're not part of that.

LANCE MORGAN: No.

LOWE: How busy is that now?

LANCE MORGAN: I think they're successful. They have four acres and that's about 160,000 or 170,000 square feet. They're going to build a facility of 120,000, so they're going to turn the entire thing into a casino floor and then they'll just park around it, you know? And, and given the fact that they have a tax advantage and they will pay no Nebraska taxes, they'll be in a very, very strong competitive position. Now I, I get along great with the Ponca and more power to them, but I think in this, in this instance, if Omaha comes out weak, they will dominate the Omaha market. Both-- they will, they will, they will be able to be super competitive against the Iowa casinos also.

LOWE: By them growing in size, will, will that guarantee them-- their customer base to increase?

LANCE MORGAN: Here's the thing, if, if, if they're going to be-- whoever comes out first with the biggest is going to probably be the winner. And we're right now going through the financing process for this and we have a market study that says Omaha can support 1,700-plus machines. If there is a Sarpy County facility, that changes the dynamic to us going to below 1,000. If we're below 1,000, that changes the equation for the Ponca Tribe and they can go from whatever hundreds up to-- into the thousands. And so they're really watching this, I suspect, hoping that you guys limit the Omaha facility because the side effect will be they will do very, very well. And I guess I can't be anything but happy for them, but, but that-- I think that's something that needs to be discussed. There's plenty of-- for both us and the Ponca Tribe, I suspect, to be strong competitors against the Iowa facilities, but you shouldn't tie the hands of the Omaha facility before you even get started.

LOWE: All right. Thank you, Mr. Morgan. Seeing no other questions, thank you.

LANCE MORGAN: Thank you for your time.

LYNNE McNALLY: Good afternoon. Thank you, Chair. Lynne McNally, L-y-n-n-e M-c-N-a-l-l-y, chief executive officer of Nebraska Horsemen's Benevolent and Protective Association. We're here to

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testify in support of the green copy of the bill and we would also support the proposed amendment with the exception of eliminating the buffer zone in Lancaster, Sarpy, and Douglas Counties. The, the Nebraska Horsemen have spent over 22 years on this single issue, to try to revitalize racing and bring racing back to what it was when Ak-sar-ben was open. The day Ak-sar-ben closed was the darkest day for horse racing in the state of Nebraska and we've been fighting our way back ever since. We worked on this initiative with Ho-Chunk to get it passed, was successful, and now I, I have to admit to you, it's extremely disappointing to me that the tracks that did not participate in the initiatives get a buffer zone and the two tracks that the Horsemen own are left out. I think there's an inherent unfairness in that and would only ask you to consider that, you know, we don't have anyone in our membership that personally benefits this. All of our money will go into purses and, and building out our facilities to increase racing days in the state of Nebraska. That's what we're doing with our money. If you allow another facility to open so close to us, that will gut our purse structure before we even have the benefit of one dime of increased revenue. You know, we, we're not making a penny more than we did November 3 a year ago. So, you know, we're still waiting and watching and, you know, hoping that we're able to apply for a gaming license so that that revenue stream can start contributing to purses again. That's our sole focus. So that's our, our only concern, frankly, with both the green copy and the, and the proposed amendment. Everything else, we're very supportive of, including the increased race days. That's very important to us as well.

LOWE: Thank you, Ms. McNally. Are there any questions? Senator Groene.

GROENE: Thank you. So you're against it, but you're for it?

LYNNE McNALLY: Yeah, I would say for 95 percent of it.

GROENE: All right. Well, that-- you said 95 percent negative, 5 percent positive. But what are the two ones you're talking about trade--

LYNNE McNALLY: The Horsemen own the tracks in Lincoln and Omaha.

GROENE: All right, so you're talking, what, Hastings and Grand Island? Grand Island prospering?

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LYNNE McNALLY: Well, and if, if you allowed another casino to open right on top of us in Omaha.

GROENE: Oh, I see.

LYNNE McNALLY: Yeah.

GROENE: So that wouldn't be the Horsemen. It'd be somebody with a casino putting in a sidetrack--

LYNNE McNALLY: Well, I mean, I suppose if you, if you eliminated the buffer zone, then, then we would have no choice but to apply for a license there, too, I guess. I, I guess I hadn't even thought about it to be honest with you.

GROENE: So you're saying the Omaha and Lincoln, it's Horsemen driving that?

LYNNE McNALLY: Yeah, that's where we'll--

GROENE: They will--

LYNNE McNALLY: Yep.

GROENE: --still focus on making sure there's a good, viable horse racing.

LYNNE McNALLY: Yeah, absolutely.

GROENE: You're saying the competitors will build a casino and as an afterthought, put a horse track in.

LYNNE McNALLY: Exactly.

GROENE: All right, thank you.

LOWE: Thank you, Senator Groene. Senator Cavanaugh.

J. CAVANAUGH: Thank you, Ms. McNally, for being here. So I'm just trying to wrap my mind around something you said. The current state of the law right now would allow for a casino in Sarpy County, is that right?

LYNNE McNALLY: No.

J. CAVANAUGH: It would not.

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LYNNE McNALLY: Well, it would if, if you went to the Racing Commission and asked. There-- it would be a possibility because--

J. CAVANAUGH: Well, we wouldn't have to change-- if we don't make any change to the law, the Racing Commission, the Gaming and Racing Commission could issue a license for Sarpy County.

LYNNE McNALLY: They could, yes.

J. CAVANAUGH: The current state of law is the ballot initiative that you just said that you and Ho-Chunk funded, right?

LYNNE McNALLY: Right.

J. CAVANAUGH: So I guess I'm, I'm trying to understand-- you're making it seem like we're doing something that would be to your detriment, but--

LYNNE McNALLY: Well--

J. CAVANAUGH: --the ballot initiative was written in such a way that contemplated the exact situation that we're in.

LYNNE McNALLY: I, I do think that the Gaming Commission would, would defer to the message that, that I think that you would be sending if you allowed that part of the amendment to go forward, which would leave the possibility open. I think they would, I think they would defer to that. That's my concern.

J. CAVANAUGH: Well, I guess, my-- you said that it was-- well, my handwriting is bad, but you said it was un-- it would be unfair--

LYNNE McNALLY: Well, if you're going to--

J. CAVANAUGH: --to allow a casino in Sarpy County--

LYNNE McNALLY: If you're going to provide a buffer zone for the other existing tracks, why wouldn't you allow a buffer zone--

J. CAVANAUGH: OK--

LYNNE McNALLY: --for our existing tracks?

J. CAVANAUGH: --so that's the unfairness part. That's what I was trying to-- because my understanding is that if we take no action-- and that's what I'm asking, correct me if I'm wrong-- that it would

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be legal for the Gaming Commission currently to approve a racetrack and casino in, in every county.

LYNNE McNALLY: Yeah. If, if you leave that as an open question to the commission, I, I think it has a different feel and look to it than if you provide a buffer zone for only four tracks, but not the Horsemen's tracks.

J. CAVANAUGH: And the only the four tracks would be the ones in Columbus and South Sioux--

LYNNE McNALLY: Columbus, Grand Island, Hastings, South Sioux City.

J. CAVANAUGH: OK.

LYNNE McNALLY: Yeah.

J. CAVANAUGH: That was what I was having trouble understanding. Thank you.

LYNNE McNALLY: Yeah.

J. CAVANAUGH: Thank you, Senator Cavanaugh. Other questions? Seeing none, thank you, Ms. McNally.

LYNNE McNALLY: Thank you.

J. CAVANAUGH: I got to go testify in another hearing.

JOHN M. DINKEL: Good afternoon.

LOWE: Good afternoon.

JOHN M. DINKEL: John M. Dinkel, J-o-h-n M., as in "Mary," D-i-n-k-e-l, from Norfolk. First of all, thank you, Chairman Briese, for all your work and your, your committee's work, your, your staff's work, and thank you, Senators, for serving, not just today but as state senators, because I know it's a tough job and thankless job and not paid real well either. But anyway, thank you all for serving. I appreciate that and the staff. So anyway, I just handed out some-- and I apologize for the handouts, but most of them are pretty well relative to the concentration issue. And obviously from Norfolk, I'm going to be in favor of this bill, including the amendment. And again, these handouts speak to-- there's actually an editorial from a couple of people in the room, including-- well, Lance was in the room-- going all the way back to the July hearing at the-- I've gone

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to all the hearings at the Racing Commission. It was interesting he spoke about concentration back in July and then yet he said, but Norfolk could be fine, or Columbus, that's not a problem, for different reasons, and he said he had some study or something. But anyway, there's a lot of opposition to the casino in Norfolk and, and the concentration is one of them. I know the voters voted for it, including Madison County, the amendment, back last year to allow gambling. I think a lot of voters-- and you can't prove it. I think a lot of them are voting for the six existing tracks, candidly, in their minds. I was. I didn't vote for it, but I think a lot of people did. So-- in fact, I kind of got involved back when-- and this will loop to Senator Flood has a bill about TIF financing for casinos. That's how I really got involved in this. And literally in two days, we got 112 or 115 signatures on a letter to the editor, which is included, people in opposition to TIF financing for casinos, especially in Norfolk. So there's a lot of opposition to a casino in Norfolk. I'm glad to see that the 50-mile radius-- and that's as the bird flies, is that right, Senator? OK. And we would be very open to the 75 miles so they didn't just go north of town five miles to get around it or something. So thank you for that amendment. We would support that. And so really, the concentration thing is the, is the big deal. And with that, I'll open up to questions, I guess.

LOWE: Thank you, Mr. Dinkel. Are there any questions? So, OK, Senator Groene.

GROENE: Are you testifying for it or against it?

JOHN M. DINKEL: Well, I'm in favor of the bill with amendment to go to 75 miles.

GROENE: OK, thank you.

JOHN M. DINKEL: So, yes, I think all the provisions look real good. I didn't read every single word, but I think Senator Briese and his staff did an excellent job--

GROENE: You, you--

JOHN M. DINKEL: --so I am a proponent of the LB876.

GROENE: --people you speak for do not want a casino in Norfolk?

JOHN M. DINKEL: But we don't want a casino in Norfolk--

GROENE: All right.

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JOHN M. DINKEL: --because of the concentration issue--

GROENE: All right.

JOHN M. DINKEL: --because they can't support it. It's too close.

GROENE: Thank you.

JOHN M. DINKEL: Yes, that's why. So we're against a casino in Norfolk, but in favor of LB876.

LOWE: All right.

JOHN M. DINKEL: OK.

LOWE: Thank you. Any other questions?

JOHN M. DINKEL: Good.

LOWE: Seeing none--

JOHN M. DINKEL: Didn't even use my three minutes.

LOWE: Hey, that was great. Thank you, Mr. Dinkel.

JOHN M. DINKEL: All right, you bet.

LOWE: Other proponents?

WAYNE ANDERSON: Yes, my name is Wayne Anderson, W-a-y-n-e A-n-d-e-r-s-o-n, and I just want to talk on the racing part of this, not the casinos. I got my first racing license in 1963. I've been with the racetrack ever since then, except for two years when Uncle Sam borrowed me. And my dad was born and raised in Wayne County, Nebraska, went on to become a jockey for Calumet Farms and rode the derby three times. I have been a groom, exercise rider, a jockey for 20 years, a ballot, and a racing official. My two sons have been jockeys and they started their careers here in Nebraska. And I just want to talk on the racing part of it now because they're all talking about expanding or doing this and how "unreasonable" and oversaturated. We need to redevelop what we had, a racing circuit, which we had before, at Grand Island, Omaha, Lincoln, Columbus, Atokad. In our heyday of racing, when we had all kinds of horses and so forth, we still lost the racetrack at Mitchell, Nebraska, Alliance, Nebraska, Madison, Nebraska, and actually Atokad. We lost all of them and that was when we had actually an overabundance of horses. And now here we sit and I'm the racing secretary-- I'm the

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assistant at Fonner Park, and I'm the racing secretary at the other tracks. So it's my job to hire officials and to-- workers that have to work there that you can't get off the street; gate crew, ballots, so forth, officials, and to work with the horsemen on getting horses there, enough there to where when we run a race meet, we have full fields. Nebraska's been known, for as small as we are, having some of the biggest fields. California has gone to run five- and six-horse fields. New York's done it. And even with what we have, we're working with these horsemen. But we get an oversaturation of tracks. They can't move like from here to there. They've got a 30- 40-horse stable. They can afford to move all their stuff, employees, so forth, to a track for like two weekends and then over to this one where we were use-- we do that other circuit, redevelop that circuit between those five tracks they said, and it would work out. I'm not here-- the casino. I'm glad about that because now we're going to at least have purses that these poor horsemen that have put up all this time will be able to keep running, will be able to run for some actual money. I rode for races in Atokad for \$900 purses and so forth, but now I'm glad to see that these horsemen, with all the work that they've done, are going to be able to profit from the casino money coming to them, but not spreading it all over. It's just not feasible for the horsemen and so forth.

LOWE: All right. Thank you, Mr. Anderson. Are there questions?
Senator Arch.

ARCH: I have a question on, on just where we are with horse racing in Nebraska. What's, what's-- which of our, which of our tracks has the most races per year?

WAYNE ANDERSON: Grand Island, Nebraska.

ARCH: Do know approximately how many that is?

WAYNE ANDERSON: Thirty-- how many this year, 36?

_____ : 36.

WAYNE ANDERSON: Thirty-six days this year.

ARCH: Thirty-- 36 days, multiple races on a day, and--

WAYNE ANDERSON: Yes--

ARCH: Ten--

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WAYNE ANDERSON: --ten, nine races on two-- well, we try to get that 28 races a weekend--

ARCH: OK.

WAYNE ANDERSON: --for the three-day racing.

ARCH: OK. And then what's, what's the least amount of days of live horse racing of one of our tracks?

WAYNE ANDERSON: Well, Lincoln is-- while they were developing their new track, has been running one day a year. Omaha, this year, because of construction, everything is just running one day. Columbus is going to run a 12-day meet this year and then it looks like Atokad will run a two-day meet, which they all want to expand for the horsemen, I mean, but they can't yet until we get everything developed.

ARCH: There are, there are standards in the, in the bill that would require you to get to a certain level of, of activity after, after a period of time. What's, what's, what kind of barriers are involved in, in achieving that and is that possible here in Nebraska?

WAYNE ANDERSON: Yes, it is.

ARCH: Could it be, could it be higher, I guess, is the other question.

WAYNE ANDERSON: Yes, I really-- once the money is generated for purses and so forth, I look-- we used to start racing in February and up in Atokad in October and November. I can remember being up there during a blizzard and stuff, but we raced continuously from February till-- through October. And that's what I-- we're all look-- the horsemen are looking for to reestablish in that and make it worthwhile and, like I said, where they can move to here, train, run for, you know, enough days that make it worthwhile, because we are competing with a track in Iowa that takes some of our horses, Minnesota that takes part of our horses, Colorado which takes part of our horses, and now Wyoming and Montana take part of our horses. But these horsemen are ready to stay in Nebraska and that when we get a full circuit developed again.

ARCH: Thank you.

LOWE: Thank you, Senator Arch. Senator Groene.

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GROENE: Thank you. So when you mean the fur-- full circuit, you're talking about the existing tracks having a longer season that butt up against each other, so they move from one racetrack to the next.

WAYNE ANDERSON: Right, that's what we use-- did when I-- and like I say, I call it our heyday when I was there.

GROENE: So are you advocating for more tracks?

WAYNE ANDERSON: No, no. The circuit that we have is a great circuit and extended days would run us that long--

GROENE: You--

WAYNE ANDERSON: --because the-- like I said, the cost of a guy with 30, 40 horses and all these grooms, all these [INAUDIBLE], and he's finally going to say, well, if they're going to run one weekend at such and such a place, I'm not going to move there. I can't afford to move everything.

GROENE: So you're advocating for casinos at the existing tracks, so it will influence a longer racing season at those tracks?

WAYNE ANDERSON: Yes, the money that's generated for our purses, right.

GROENE: So you're not looking for more tracks?

WAYNE ANDERSON: No. No, sir.

GROENE: Do you know if the Racing Commission, are they under statute or rule that when they rule on a, on a new track, that that track has to prove it's feasible as a racetrack?

WAYNE ANDERSON: Yeah, that I don't know, you know, what the, what the commission's rules are on that but--

GROENE: I guess they're going to testify, so we will wait and [INAUDIBLE] them. Thank you.

WAYNE ANDERSON: So I'm just hoping that they, you know, realize-- and there is some horsemen on there that know, you know, what it's like because, you know, the expenses that these-- especially these poor owners and trainers gone through all these years trying to keep racing alive in Nebraska.

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LOWE: All right. Thank you, Senator Groene. Other questions? Seeing none, thank you, Mr. Anderson--

WAYNE ANDERSON: Thank you.

LOWE: --appreciate it.

CHRIS KOTULAK: My name is Chris Kotulak, C-h-r-i-s K-o-t-u-l-a-k. I am the CEO at Fonner Park. I was born and raised in Omaha, a short bicycle ride to the old Ak-sar-ben racetrack. Welcome all of the senators, staff, before me and off to my side as well. I am, in general, in support of the two bills that Senator Briese put forth and his amend-- amended bill, but I do think that they need strengthening. And I think what we have here-- after I'm done speaking, I am going to have something be passed out by the pages for you to digest thereafter. But this is a classic scenario of putting the cart before the horse in that we are essentially trying to retrofit casinos into racetracks, be it racetracks that exist already or are in someone's mind that they, they would be a viable commodity, a racetrack, and then, of course, a casino. We know that that's the intent, for a casino not a racetrack, because in the last 60 years there has been no application for a thoroughbred racetrack because they know the viability is not there to stand on its own as a, as a racetrack. And knowing that I'm up against the clock, I'm going to just jump to my closing remarks right now that-- that do support quite a bit of what Mr. Anderson said. And it, it sort of creates the awareness-- and that's what I'm here right now is to generate some awareness for all of you-- is that horse racing in the nation is dwindling. It is waning away. In the last 20-some years, this millennium, we have had over 30 racetracks close. This year, there's likely to be roughly 75 tracks in the United States to race, thoroughbred racetracks to race. And in the last 20-some years, more than 30 have closed. Nebraska has a chance to stand on its own with the circuit that we have. Could we have another racetrack? Maybe, maybe out west it could be supported, extreme west; maybe extreme east, it, it could be supported. But all I'm asking for is that the racetracks that are operating now carry the weight, to share, carry the burden of running the dates that they should run, running the races that they should run. Fonner Park races nearly 30 races in our season. We're picking up additional days this year. If all the tracks in Nebraska that are licensed now race at least 120 races, preferably more, that circuit that, that Wayne Anderson spoke of, could get revitalized and we could stand on our own and ideally horsemen in the state would not have to go elsewhere. Nebraska would provide enough butter for their bread so that they could start off at Fonner Park,

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race throughout the rest of the year, and not be swayed away by racing in, in other states on the border. Thank you.

LOWE: Thank you, Mr. Kotulak. Senator Brandt.

BRANDT: Thank you, Chairman Lowe. Thank you, Mr. Kotulak, for testifying today. So Fonner runs 120 races right now?

CHRIS KOTULAK: We, we run nearly 300 right now. We have a 31-day racing season.

BRANDT: So the other five tracks today, put together, run how many races today?

CHRIS KOTULAK: Race? Well, the race dates would be 52 race dates. And after Fonner, after we run nearly our 300 races, Columbus will run 12-day racing, so they'll, they'll be lucky if they got 100 races out. And then the other tracks in the state run one race, one race.

BRANDT: So really Fonner is the industry in the, in the state of Nebraska today.

CHRIS KOTULAK: We are and we're happy to carry our share of the weight, but--

BRANDT: And then--

CHRIS KOTULAK: --but--

BRANDT: And then--

CHRIS KOTULAK: --we're asking for others to do the same--

BRANDT: OK.

CHRIS KOTULAK: --so pardon me.

BRANDT: And then looking at the circles that were handed out by Mr. Morgan before, you're in sort of a unique position and today you're the western track and you also have an existing track, what, 20 miles away? Hastings?

CHRIS KOTULAK: We-- Fonner Park is not affiliated with Hastings.

BRANDT: I know that.

CHRIS KOTULAK: Yeah.

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BRANDT: But if, if-- but Hastings would be grandfathered in, is that correct?

CHRIS KOTULAK: That is correct.

BRANDT: OK. So how far west-- you, you thought Nebraska could support another western track?

CHRIS KOTULAK: I, I think so. We-- my research shows that once you get beyond 150 miles, that becomes beyond your market share. I have seen market studies that have shown that with the six existing racetracks, if they were all to operate and have a casino, that they would make X hundred million a year. And if you added six additional racetracks to that, so let, let's say now we have 12 racetracks operating in the, in the, in the state and thereby 12 casinos, that only increased it by 20 percent, the gross gaming revenue. So there is an over-- oversaturation factor and I can speak specifically to Fonner Park. Elite Casino, Elite Casino Resorts is our partner and we had an agreement that they would build a casino resort, a hotel and resort with a spa and a parking garage, an indoor-outdoor pool, and a proper resort. Once they got to Grand Island, looked around even more after we came to terms, they said, you know what, we'll spend more, we can go to \$120 (million), maybe \$140 million. Well, if somebody opens up a casino within 75 miles of us or 50, that is going to go right back down to that \$100 million mark or even below, just because not everybody can have a Disneyland. And if you have ten Disneylands in Nebraska, the lines are going to be pretty short to get in on the small world ride.

BRANDT: But your study did take into account Hastings having something, is that correct?

CHRIS KOTULAK: It did, it did, correct.

BRANDT: All right, thank you.

CHRIS KOTULAK: Yes, thank you.

LOWE: Thank you, Senator Brandt. Senator Arch.

ARCH: Thank you. I'm still wrestling with the horse racing industry and, and all of the economics, so do, do our current statutes specify thoroughbred versus quarter horse versus any other type of racing?

CHRIS KOTULAK: They do not. There are two breeds permissible to race in Nebraska, thoroughbred racing and quarter horse racing. And, and

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the quarter horse racing has been essentially non-existent for the last 50 years, although there is a track that is licensed in Hastings for quarter horse racing.

ARCH: OK, so if, if we were to say 100 and-- you, you threw out the number 120 races per year, would it need to say thoroughbred?

CHRIS KOTULAK: My fear is if we stipulate the breeds, a distinct-- distinction in allowing one breed to do one thing and another, another, be it by the rules or otherwise, all we're doing is we're opening it up even more so to the-- more proliferation of casinos, which is what we're here-- I'm, I'm here to do my best to create the awareness of, of what that result would be.

ARCH: Thank you.

CHRIS KOTULAK: Thank you.

LOWE: All right, thank you, Senator Arch. We're on the table. Thank you, Mr. Kotulak.

CHRIS KOTULAK: Thank you.

TOM JACKSON: Good afternoon. My name is Tom Jackson, T-o-m J-a-c-k-s-o-n. I'm with Columbus Exposition and Racing. I'm here in support of LB876. You know, it's, it's amazing what I've heard, some comments, and I applaud Mr. Kotulak. We, we have to avoid putting the casino before the horse-- I mean the cart before the horse-- is, is basically what I'm saying. We, we need to enhance the horse racing industry for ag reasons. The more breeding we get in this state, the more feed, more supplies, more jobs are going to be in the state. We talked a little bit about sustaining the network. Fonner will have approximately 750 horses at their grounds, the stable. Once their meet is over, our meet steps in for 12 days. We-- last year in 2021, we went from 750 at Fonner to 240 at Columbus to run our ten-day meet last year. Where do these people go? They go to Iowa, Minnesota, Colorado, Wyoming, South Dakota, Oklahoma. They scatter. The support that I want from you and the commission is to rebuild the circuit. I think it's critical. The more horses we breed in this state, the more ag feed we're going to have, which is going to enhance the good life anyway. I do believe that the 50-mile radius is a little light. I, I support a 100-mile radius. I believe that we need to change the number of days of racing to the number of races. We run-- we'll run 12 races this year; 9 races a day, that's 108 races. We could go to 120. I don't think that's a problem, but that is a commitment to the

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horse racing industry. I do believe there needs to be a requirement on investment in the horse track. We will spend with our partner, Caesars, \$10 million to improve the horse track. That's a \$10 million investment for world-class racing. That's our goal. I'll take any questions.

LOWE: Thank you, Mr. Jackson. Are there any questions? Senator Arch.

ARCH: Thank you. The purse, how would-- if we were to grow this industry in horse racing, are the purses generated out of the casino then? How, how-- I mean, you got to have dollars to attract the horses, obviously.

TOM JACKSON: Correct, correct. Purses are generated by the mutuel handle and can be subsidized with casino gaming.

ARCH: OK.

TOM JACKSON: That's probably the easiest way to say it.

ARCH: Thank you.

LOWE: Thank you, Senator Arch. Senator Brandt.

BRANDT: Thank you. Senator Lowe. Thank you for testifying today. Purses can also be subsidized by the Bosselman stakes or--

TOM JACKSON: Absolutely.

BRANDT: Yeah, whoever--

TOM JACKSON: Sponsorships.

BRANDT: Sponsorships. And I'm not sure who gave me this handout, but they have Nebraska breds by foaling year and I know this-- I don't think this came from you. In 2000-- 2008, 147 registered foals and 105 starters; in 2018, we had 36 foals, 16 starters. The requirement right now is you have to run one Nebraska-bred race every day, is that correct?

TOM JACKSON: That is correct. Every racetrack has to run at least one Nebraska-bred race a day. Correct.

BRANDT: Won't those, won't those same horses get awful tired?

TOM JACKSON: Well, and, and that's why it needs to be stepping stones in, in growing this market. I believe, you know, a whole-- a foal

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that is born in 2022 may not go to the racetrack until at least 2025. So there may-- I believe the lowest we've been, 16, you know, if we could get up to 700 foals a year, the, the-- it's going to help ag, hay, food, feed, etcetera, but it's also going improve the racing locally.

BRANDT: So what I'm looking for-- and we've had some of the horsemen, some of the casinos up here. I'm looking for that connection between the two, that the casinos are saying we are going to bump this up to come up with some program in Nebraska, because to be a Nebraska bred, I think they have to be here 90 days before, unless they're purchased at a sale in somewhere, they can be 30 days, but somewhere I want to see the connection between the two industries and how they're going to build up the equine industry in the state of Nebraska because I, too, remember what it was like when all those tracks were strong and I really enjoyed going to those tracks.

TOM JACKSON: Um-hum.

BRANDT: And it's, it's-- today, it's a shadow of what it used to be.

TOM JACKSON: No doubt.

BRANDT: So I don't know if you guys have a plan?

TOM JACKSON: Yes, I believe the Horsemen-- HBPA has a plan, along with all the, all the tracks that are, are going to run. History speaks for itself. I look back to the '80s when Ak-sar-ben was going well. Little track in Altoona, Iowa, Prairie Meadows, was on the verge of bankruptcy. They were given the opportunity of expanded gaming. That track today is a regional powerhouse for horse racing, as, as well as a great destination spot for Des Moines, Iowa. That is really the goal I want to have is to bring destinations back to these communities, grow the horse racing industry, industry through the gaming operations.

BRANDT: Except Prairie Meadows is the only track in Iowa.

TOM JACKSON: That is correct.

BRANDT: All right. OK, thank you.

TOM JACKSON: Thank you much. Any others?

LOWE: Yes, Senator Groene.

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GROENE: Thank you, Vice Chair. Does Iowa have a law that says you have to have so many race days?

TOM JACKSON: I believe they do for-- in their relationship on, on the horse and gaming side. They're subsidized by the gaming.

GROENE: So they make, make sure that gaming subsidizes--

TOM JACKSON: The purse monies.

GROENE: --the purses because you said they have to have so many race days.

TOM JACKSON: Correct.

GROENE: So maybe 15 days isn't enough.

TOM JACKSON: In Iowa, I believe they're running 52.

GROENE: They have to run 52 or is that a choice?

TOM JACKSON: The-- I, I'd have-- I can't quote that.

GROENE: So when they leave Grand Island and they, and they skip over Columbus and they go to another place, is that because purses are better at other places?

TOM JACKSON: Exactly.

GROENE: It's not because of [INAUDIBLE]--

TOM JACKSON: The purses are probably three to four times higher in these other jurisdictions.

GROENE: Is that because they have a longer season?

TOM JACKSON: No, because they-- they're generating more handle as well as being subsidized by the gaming operations.

GROENE: They are--

TOM JACKSON: Yes.

GROENE: --in those other states, South Dakota and--

TOM JACKSON: South Dakota is a different story.

GROENE: What was the other state you mentioned?

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TOM JACKSON: Minnesota.

GROENE: They subsidize--

TOM JACKSON: Minnesota is doing it the same way as Iowa.

GROENE: They're tied together there too?

TOM JACKSON: The--

GROENE: Casino and racing.

TOM JACKSON: And the gaming, correct.

GROENE: All right, thank you.

TOM JACKSON: Thank you.

LOWE: Thank you, Senator Groene. Seeing no-- nobody else, thank you very much.

TOM JACKSON: Thank you, appreciate it.

LOWE: Welcome.

ZACH MADER: Thank you. Zach Mader, president of the Nebraska Thoroughbred Breeders Association, Z-a-c-h M-a-d-e-r. All right, I'll start with just a little something I wrote. Racing in Nebraska was created many years ago to promote agriculture and breeding in the state. Casinos now will piggyback on the same principle. There is some concern that oversaturation and less-than-strict entry in-- into casinos and the racing would not fulfill the original intent of legislation. The words "to promote or encourage agriculture and breeding" should be at the forefront of this conversation. The breeders' main concern is live racing meet days, as spelled out. We believe the number of races is far more important than live racing meet days. If a racetrack has five days of races in that race-- five days of racing and the racetrack chooses to one-- run one race with minimal horses, does that encourage agriculture or breeding? Even the purse-- even if the purse money is large, it's more like playing the lottery at that point. We believe we need as many opportunities as possible for our breeders and horse people. Without rules that designate how many races need to be run at a race meet, we believe the casino revenue, revenue will not be used appropriately to encourage agriculture and breeding. The second concern is oversaturation and too few horses to conduct live racing meet days at

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new tracks and casinos with little or no infrastructure. To house 700 to 1,000 horses in one spot is a very large undertaking. It has proved difficult for some existing racetracks right now. In closing, we support LB876, but would like to see-- we would like to see more stringent rules of entry into the casino racetrack licenses. Our biggest fear is the money set aside for racetracks and purses and will not have adequate opportunities for our breeders and horse people to capture their share.

LOWE: Thank you, Mr. Mader. Questions? The term "live race day" and "live races," should they be put together so that they don't run all the races on one day, maybe run ten races on one day and, and it wouldn't be profitable for the, the horsemen to even show up for one day's worth of races?

ZACH MADER: Yeah. So, I mean, I see where you're coming from there. I'm not necessarily opposed to that. From a Nebraska bred-- thoroughbred registry, registry standpoint, more days is better. We're guaranteed one race per day of Nebraska bred. Senator Brandt just walked out of the room, but, you know, he noted in 2018 that we had 36 foals. A year ago, we had 176 mares that were bred. So we will have five times as many foals, you know, starting-- as of last week, moving through the next couple of months, and we expect this number to continue to climb and we're going to need more opportunities.

LOWE: All right, thank you. Senator Groene.

GROENE: I'm naive about this, but could I just pull up with my horse trailer and pull my horse off and enter a race or do you have to be a member of the-- the horse has to be a registered horse registered with the Racing Commission to enter a race or how does that work?

ZACH MADER: Well, you would need to be licensed, for one. Now, if we're talking strictly Nebraska-bred racehorses, you-- the mare would have had to be registered. The foal would have to be certified. There would be paperwork. It would be in the racing office and all that stuff. So to answer your questions, no, you could not pull up with your trailer and walk the horse off and take it to the starting gate.

GROENE: And that's-- the ones coming in from out of state have to follow that, be registered in Nebraska?

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ZACH MADER: If they-- well, they would not be a Nebraska-bred horse at that point in time. So for other horses, their paperwork is still in the office, trainer is licensed, owner is licensed--

GROENE: In the state of Nebraska.

ZACH MADER: --in the state of Nebraska.

GROENE: Thank you.

LOWE: All right, thank you, Senator Groene. Seeing nobody else, thank you.

ZACH MADER: Thank you.

LOWE: If there are other proponents, if they would please move forward so we can get an idea?

SEAN BOYD: Good afternoon, Senators. Sean Boyd, S-e-a-n B-o-y-d, with Global Gaming Nebraska, which is a wholly owned subsidiary of the Chickasaw Nation from the state of Oklahoma. I'm here representing our entity in support of LB876, as well as the amendments as read today, with the exception of the additional tracks inside the 100,000 resident-- in those counties in Omaha and Lincoln areas. While we do not have a dog in that hunt, we also support what you've heard today from the industry that the oversaturation would be difficult on the number of race days that would be required to meet the threshold in this state that would look-- define success. We run today 117 race days at Remington Park in Oklahoma City, which is a racetrack with a casino which we own and operate. We also run over 70 race days today at Lone Star Park in Dallas, Texas, which does not have a casino, given that gaming is not legalized in the state of Texas. We operate 23 casinos in south-central Oklahoma, an additional two casinos on behalf of other entities in markets in rural Oklahoma and northern Oklahoma. We are partnered with the Quarter Horse Racing Association here in Nebraska. And as you've heard from the industry today, there is likely, and we believe our studies show, reason to believe expansion in the west is justified, thus a 75-mile radius, as introduced in the amendment, is justifiable. We have applications in both North Platte and Gering and submitted before you are letters of support from the mayors as well as city officials in those cities. We believe that quarter horse racing to date has been non-existent. You've heard that testified already today. There's been one race day a year with one race. We are very much in support of growing that breed specifically. Certainly open to mixed meets in the future, as

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the future of Nebraska racing grows, and a mixed meet would be running quarter horse and thoroughbred at one track. The future of Nebraska very well may get there. Our goal is, between Hastings, North Platte, and Gering, to run the appropriate number of days, as would be in statute here. Forty-five days a year would be just fine. We can grow to that by 2031. We have experience to do so. As was mentioned earlier, someone who connects horse racing and casinos together, that is what we do in support of local communities, the breeders, the trainers that will come, they will go to sale, they will buy horses, and they will breed and train those horses in this state, and it will be an economic boom for the cities and the counties where there could be expansion, specifically in western Nebraska, thus our support and our goal to grow in western Nebraska. Overall, I do have some comments on, on, on Boot Hill and relative--relativity to western Nebraska that I could certainly answer questions on. We actually have taken quite a bit from Boot Hill when we opened a facility in Guymon, Oklahoma, which is roughly just about two hours away from Boot Hill, and it is an old commercial market there in Kansas. I'm happy to answer more questions about that. Thanks.

LOWE: Thank you, Mr. Boyd.

SEAN BOYD: Yes, sir.

LOWE: Are there-- Senator Groene.

GROENE: If you're looking at a quarter horse, have you looked into how many breeders of quarter horse there are in the state of Nebraska now?

SEAN BOYD: Senator, yes, there are roughly 80,000 registered quarter horses in the state today. Roughly 5 to 10 percent of those would have race breed in them, is statistically what you would see. So we believe that there is a generous ramp-up cycle with the new tracks of one to three days per year. In both North Platte and Gering, we've been on the record to say within five years, we'd like to get to 12 race days. So the statute, we could meet that. I think if you looked at the state of Indiana, it would be very similar to what Nebraska is facing for quarter--

GROENE: So--

SEAN BOYD: --horses.

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GROENE: --in the state of Nebraska, there's a registry for quarter horse, just quarter horses, the ones that also have the genetics to be racers?

SEAN BOYD: There's been no incentive for them to register as racers today, given that there was only one track running one race one day, and that was the, the minimum threshold that that track needed to meet to retain their license today. So there's really been no incentive for them to see if that race bred--

GROENE: So there's no strictly quarter horse breeders, racehorse breeders in the state of Nebraska?

SEAN BOYD: Save one. There's one that, that has bred those horses for the one race day in Hastings.

GROENE: In Grand Island.

SEAN BOYD: Yes, sir.

GROENE: So what state or where is quarter horse racing popular? Is it in Oklahoma?

SEAN BOYD: Oklahoma, very, very popular. We run-- and in Texas, for that matter-- roughly 40 percent of the 110-- 17 days-- or the 70 days that we run at our tracks are quarter horses today. Indiana has done very well with the backing also of the gaming industry and we've already heard from the states of Colorado, Wyoming, as mentioned earlier, South Dakota, that would bring horses in as well to run the additional race days.

GROENE: Maybe this is private information, but you're involved in Hastings with that race track there?

SEAN BOYD: We-- yes, sir.

GROENE: How do you feasibly expect to build a casino there that close to Grand Island? You heard the-- the-- the size of what Grand Island is trying to do. How are you going to do anything but a metal building and little old ladies' slot machines in Hastings?

SEAN BOYD: Great question. I think if you looked at the Chickasaw Nation, we have 13 counties, roughly 7,500 square miles in south-central Oklahoma, and we operate 23 casinos there today. If you were to look at those facilities, we're on the record showing what

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our plan would look like in those builds. They're \$40-plus million investment into a facility like that.

GROENE: How far apart are they?

SEAN BOYD: Well, 7,500 square miles. Some are no more than 20, 30 miles away from one another.

GROENE: And they're-- population density?

SEAN BOYD: Population density reflects very similar to Hastings. Most of our communities are anywhere from 20,000 to 35,000 residents in those communities.

GROENE: And they're being successful?

SEAN BOYD: Yeah, very. Yeah, there's growth there. We, we have-- we operate in a densely-- we certainly are not suggesting there should be 23 casinos in the state of Nebraska. The Chickasaw Nation, as many tribes in the state of Oklahoma, have to operate with an exclusive jurisdiction. Thus, we've been able to build and grow within that 7,500-square-mile radius.

GROENE: Thank you.

SEAN BOYD: Yes, sir.

LOWE: Thank you, Senator Groene. Senator Brandt.

BRANDT: Yeah, real quick question. A number of years ago, when, when I worked for IPP, I was at a track in Washington State and they ran mixed races. They had thoroughbred and quarter horse races on the same ticket at the same track, and I'm unaware of Nebraska ever doing that. Is there a reason we could not do that in this state?

SEAN BOYD: Senator, you're correct, we could. And we, we do that at Remington Park today and we do that at Lone Star Park, which is Oklahoma City and Dallas tracks that we operate. We believe the future in Nebraska could justify that. The growth of the breed would, would be fueled by the purse money that's fueled by the casino. So a little bit of chicken and egg in all of this, right, which we believe the amendment justifies the ramp-up period to get there. But the purse money will drive the breeding and incentivize Nebraskans who are interested in the equine industry to go purchase horses at sale, foal them here in Nebraska, and you'll have a growth of a foal to, to do mixed meets.

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BRANDT: All right, thank you.

SEAN BOYD: Yes, sir.

LOWE: Thank you. Senator Brandt. Seeing no other que-- questions, thank you, Senator-- Mr. Boyd.

SEAN BOYD: Thank you very much.

LOWE: Are there any more proponents? Proponent?

PAT LOONTJER: I couldn't decide. [LAUGHTER]

ARCH: You and several others.

LOWE: I had a questioned look on my face.

PAT LOONTJER: I know. I'm Pat Loontjer. I'm-- it's spelled L-o-o-n-t-j-e-r. I'm the executive director of Gambling With The Good Life, who for 26 years now has opposed any form of expanded gambling in the state. When we were formed back in 1995, a number of gambling was already available: bingo, keno, horse racing, and lottery. And we kind of drew the line in the sand and said it's almost impossible to roll anything back once, once you put something into effect. So we've never opposed horse racing. We've opposed them when they tried to change the number of days and lessen and things like that, but not as a whole. And I think that you have a, a tremendous opportunity as a, as a committee to rein this thing in. We-- by constitution, we lost in 2020. There's going to be six casinos. We have to bite the bullet and-- but to minimize the damage. We know the damage that's going to come with this. This is an industry that does not produce anything except heartache and bankruptcies and addictions. And I think we need to hold them accountable to the fact that it's, in this constitutional amendment, tied to the horse racing industry. And we would hate to see what happened in, in Council Bluffs with the dog track and the dog track was, was fading just like the horse racing is, is-- they've even said themselves it's a waning industry. And they said, give us the slot machines and we'll save dog racing. It was only a number-- a few years. There is no more dog racing in, in Iowa. It's gone. And we would hate to see the casino industry abuse the horse racing industry and use them as a pawn to promote their \$200 million, \$300 million facilities when eventually they're going to phase them out because they're going to be a liability to their bottom line. So the number of days, the number of races, the, the restrictions that are up to you today to decide, or, or amendments that are going to be offered to strengthen it and to provide that

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they can't be abused by this, this, this industry, we would certainly-- certainly support. So anyhow--

LOWE: Thank you, Ms. Loontjer.

PAT LOONTJER: So I think I'm positive. I could be neutral, but-- and we will have some testimony to that. I'll just leave you with the thought that cas-- the casinos' goal is to prey upon their citizens and your goal or your job is to protect us. And so I just ask that you make these rules and regulations as strong as possible to honor, honor the people that you represent.

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

GROENE: I want to-- you fit right in with the rest of them. I heard more negative than I heard positive so far about this bill.

PAT LOONTJER: Yes.

GROENE: I'm really curious to see what the, the opponents have to say.

PAT LOONTJER: Um-hum.

GROENE: They might be positive. [LAUGHTER]

PAT LOONTJER: It would be an interesting hearing.

GROENE: Thank you.

PAT LOONTJER: So-- thank you, sir.

LOWE: It is General Affairs Committee, isn't it? All right, any more proponents?

ED ZIEMBA: Good afternoon. My name is Ed Ziemba, Ed, E-d, Ziemba, Z-i-e-m-b-a. I'm with the Nebraska Quarter Horse Racing Association. I planned to speak to LB877, but I do want to take a position on LB876 that is supportive of the bill itself and the amendments, including the 75-mile restriction, restriction on things. We have an association that deals strictly with quarter horses. We used to have quarter horse racetracks in Broken Bow and Hastings and Deshler. That was a circuit that we had. Because of a variety of things, including the elimination of the quarter horse tracks being able to participate in what we call the small track fund, racing for all practical purposes of any significance declined and, and really stopped for a

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little while, except for in Hastings, OK, and that was because of that. No money, if you don't have any, you don't have any funds to run. We have a registry for Nebraska-bred horses in the state, but our, our breed-- national breed registry is with the American Quarter Horse Association in Amarillo, Texas. From them, they say, as, as Mr. Boyd alluded to, we have 80,000 registered quarter horses in the state-- that's registered, that's not grade horses that maybe wouldn't be registered-- and 14,000 owners. What has restricted those folks from getting more involved with the racing side of things was simply opportunities to race and the dollars associated with that. That's all I have to say for now. Thank you.

LOWE: Thank you, Mr. Ziemba. Are there questions?

GROENE: Question-- yes.

LOWE: Question.

GROENE: Let's say Ak-sar-ben and Lincoln and stuff was a parimutuel racing--

ED ZIEMBA: Correct.

GROENE: --where they were getting funds. Is there a parimutuel on quarter horse racing?

ED ZIEMBA: [INAUDIBLE]

GROENE: Does Hastings take--

ED ZIEMBA: Parimutuel bets? Yes, sir.

GROENE: So that has kept Hastings afloat?

ED ZIEMBA: Hastings has had one day of racing, basically one race, for years to maintain that license. We've had efforts to try and get some changes made to the legislation. You're familiar with the historical racing machines and some things like that in the past. Those weren't successful. November 2020 was a big deal for all of horse racing in Nebraska, and in particular quarter horse racing.

GROENE: But what is the revenue stream for Hastings now if they only have one race a year?

ED ZIEMBA: There's a gentleman in the room that contributes an awful lot of his personal money--

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GROENE: All right, thank you.

ED ZIEMBA: --to keep that track going.

GROENE: Thank you.

ED ZIEMBA: Welcome. Any other questions?

LOWE: All right, thank you, Senator Groene. Seeing no one else, thank you, Mr. Ziemba. Are there any more proponents? Any more proponents?

DON WESELY: Mr. Chairman, members of the General Affairs Committee-- I almost got that filled out-- I apologize. I was at another hearing and wanted to testify on behalf of the Winnebago Tribe of Nebraska. My name is Don Wesely, D-o-n W-e-s-e-l-y. I'm passing out-- I will pass out for you a letter in support of this legislation. It is written by Victoria Kitcheyan, who's the chairwoman of the Winnebago Tribal Council. The Winnebago Tribe supports the efforts to try to clarify different issues that are found in both. This is in, in support of both LB876 and LB877. I, I won't read the letter that you're about to receive, but it indicates that there is good reason for legislation as introduced. There is concern on behalf of the Tribal Council about a proposed exemption for Sarpy County. We would oppose that. We do not support that. We believe that that would be a mistake for the state of Nebraska, as we compete with Iowa, and would hope that we-- you would not adopt that amendment. So being brief, that's-- that will end my testimony and you have the letter from the chairwoman of the Tribal Council.

LOWE: All right. Thank you, Mr. Wesely. Any questions? Senator Brandt.

BRANDT: Thank you, Chairman Lowe. Thank you, Mr. Wesely, for testifying today. I've, I've heard a lot of people speak against Sarpy County and I think Sarpy County is-- and Senator Arch can confirm this-- is probably the same size as the Council Bluffs-- the county across the river. The way I see it, currently, there's only one casino serving-- in our plan that serves one-third of the population of the state of Nebraska. And do you think there's enough pie there to maybe go around for more than one casino on the Nebraska side?

DON WESELY: You know, Senator Brandt, that's, that's a fair question. I would respond that the plans that Ho-Chunk has for their casino is to make it extraordinary. We're in competition with Iowa and we need to have a casino that's spectacular, that is better than going across

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the river at the options that they have there. So splitting on the Nebraska side and not having facilities and opportunities that are better than what you can get over in Iowa is really important. And so I think it's all a competition and we've been seeing this since the casinos came in over there back in the '80s. And I was around in this body at that time and it was one of those, no, no, that's bad, it's a terrible idea. One of the worst mistakes we ever made was, was not allowing for gaming so that we could compete with Iowa and see the money of Nebraskans flow there and then used against us. I was mayor when we had a business that wanted to locate in, in Lincoln. And as we negotiated on that, at the very end, Iowa had a pool of money from gaming that the governor could use to grab businesses and bring them into Iowa and we lost because of that. Same thing happened to us in Wisconsin, same thing. And we have to realize the state is in competition. We finally took the step to compete and we can't make mistakes along the way so we don't compete as effectively as we can to bring revenue back into the state of Nebraska.

BRANDT: So to flip the argument around a little bit, I lived in South Sioux City twice in my life. It's 10,000 people. Sioux City is 90,000 people and they have two strong casinos in Sioux City and yet, we in Nebraska, in a city of 10,000 people, are going to build a casino. And there's no qualms about doing that there, but we have qualms about letting another casino be in the metro-- greater metro area of Nebraska. Can you address that?

DON WESELY: The, the real focus is that Omaha metro area and Council Bluffs and so my, my thinking is-- and I've already expressed it, but, but we have a tough fight. I mean, we're outnumbered and surrounded and we have to have a facility that gets the financing so it can be spectacular to overcome the numbers that are over in Iowa. If we duplicate Iowa and have several different facilities that are not that much different, we won't win the battle as much as we would if we had one fantastic facility that will attract, as a destination, Nebraskans to come there and, and utilize the services.

BRANDT: All right, thank you.

DON WESELY: Thank you.

LOWE: OK. Seeing no other questions, thank you, Mr. Wesely.

DON WESELY: Thank you.

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LOWE: One more time, proponents? Seeing none, we'll move now to opponents. And if we could move-- if you could move up to the front seats so we can have an idea.

JOHN HASSETT: OK. Good afternoon, Vice Chairman Lowe and members of the General Affairs Committee. My name is John Hassett, J-o-h-n H-a-s-s-e-t-t. I'm a director of Aksarben Equine and I appear today in opposition to LB876 as it's introduced. A little background, I mean, I've been the manager of Bellevue Keno the last 23 years and a lifelong horse racing fan. We used to own horses. When Ak-sar-ben closed, we sold them and, and now we've been purchasing them again. Aksarben Equine submitted a proposal for a racetrack in Bellevue to be named Bellevue Downs. And-- and that's why I'm opposed to LB876 as written because the 50-mile distance would, would eliminate our proposed site. It, it eliminates Bellevue, the third-largest city in the seat-- in the state, and all of Sarpy County, the third-largest and fastest-growing county in the state. Now I-- I've seen and reviewed three market studies on gaming locations in Nebraska. All three agree that the metro area can support two casino operations. They also show that while the numbers would be down some in an Omaha site, the combination of two casinos increases the market and the market share on the Nebraska side. You know, the campaign for the petition to allow casinos at horse tracks focused on three things: keep the money in Nebraska, generate money for property tax relief, help horse racing. Allowing Bellevue to have a casino helps accomplish all three of those goals. It'll keep more money in Nebraska, generate more money for property tax relief, and provide more money for horse race purses. A benefit of the Bellevue proposal for horse racing goes beyond generating purse money from the casino. We, we propose a quarter horse track and there's never been a quarter horse facility in the metro area. We think the new format will attract new fans. It will also increase breeding of quarter horses. We went down in Oklahoma City last week and bought a couple nice mares. That's just the start. I think this would be a big opportunity for the Nebraska horse farms if there was a good quarter horse circuit in Nebraska. Now, after the ballot initiative passed in 2020, I had several discussions with Mayor Hike and the leadership in the city of Bellevue. One of my main concerns, and I heard it here a little bit today, was that horse racing in Nebraska will go the way of dog racing in Iowa, that it will be used as a vehicle to obtain a casino and then discarded. And to-- as part of our proposal, I have Shaun Hubbard will operate our quarter horse track. Shaun was a GM at Ruidoso Downs. And even though they have casino gaming, his love of the horses was his favorite side of that business. He's going to be

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overseeing our racing operation. He had, at one time, about 180 horses there. I see my light's going on, but our casino partner is Saratoga Holding Company. They have a harness track in Saratoga, New York, since 1941. It's been in their family. They, they run about 150 races-- racing days a year. New York allowed casino gaming at the track in 2004 and they also have a casino in Black Hawk, Colorado. They're, they're the perfect fit for what I wanted to do in Bellevue because they understand the horse racing part of it. Grandpa Gary [PHONETIC] had about 100 horses. They will not be trying to eliminate horses. We will be able to increase the, the breeding numbers in the state and they're very much in favor, in support of the horse racing aspect of this.

LOWE: Thank you, Mr. Hassett.

JOHN HASSETT: So, I'll-- I just want to say that, you know, we, we have an outstanding proposal at the best location that currently doesn't have a track in Nebraska. And please don't leave us at the post. Give us a chance to get this up and going. Thank you.

LOWE: Thank you, Mr. Hassett.

JOHN HASSETT: Questions?

LOWE: Questions? Senator Arch.

JOHN HASSETT: Yes.

ARCH: Thank you. A question, you've, you-- I'm sure you've, you've listened to the testimony earlier and there was discussion of, of raising the number of races per year and a number of 120 was, was talked about. What's, what's your reaction to that, having a, having a higher standard on how many races per year to qualify for horse racing and then, therefore, a casino?

JOHN HASSETT: No, I think, I think that's fine. Like I say, we were-- we're, we're really excited about the horse racing part of it. We plan to get to 24 race days. So we're-- we were-- in our plans, we're, we're hoping to have about 200 races a year. Yeah.

ARCH: Thank you.

JOHN HASSETT: In fact, the only thing I'm opposed to is the 50-mile restriction. I read the rest of the bills. I don't think I'll come back up for the next bill, but I think you guys understand that, I mean, you're, you're eliminating us without that amendment, so--

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LOWE: All right, thank you.

JOHN HASSETT: Yes.

LOWE: Senator Groene.

GROENE: So how many stables are you building-- expectations? You gonna bring 100 horses in, you're going to a pretty good size--

JOHN HASSETT: Yeah, yeah.

GROENE: So--

JOHN HASSETT: Like I say, Shaun Hubbard [PHONETIC] down at his farm, he's got about 180 head. Here, he used to have about 100, but we-- in our proposal we sent to the Racing and Gaming Commission, we're going to start with 200 stalls and leave room for up to 800.

GROENE: So--

JOHN HASSETT: We have to build up.

GROENE: So you're planning on a big race-- into the future, more than one race a day?

JOHN HASSETT: Oh, yeah. Yeah, no we're---

GROENE: How often can a horse race?

JOHN HASSETT: Well, you know, once, once you get them fit, they'll bring them back in a couple of weeks. But you don't see too many anymore race more than, you know, 15, 20 races a year. That would be--

GROENE: That's it?

JOHN HASSETT: That would be about it.

GROENE: Quarter horse too?

JOHN HASSETT: Yeah, I'd say thoroughbreds or quarter horses. Now there's exceptions, you know, to every rule, but-- you know, I'd say you won't, you won't see more. The average starts would be 15, 20.

GROENE: And most tracks do weekends, three days?

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JOHN HASSETT: Yeah, yeah, I would think that those would be your best. And, and I heard Wayne talking about how it's going to be hard for guys to shift-- move their stables around. And I, I agree with that. I mean, it's hard to move a big stable for a six-day meet. But what I think is nice about what I've seen proposed is there would be a quarter horse track in Hastings, North Platte, Scotts Bluff. I think guys would train and then just ship the horses that they're going to run. I, I think they'd run right out of their home base and I think that would work out great.

GROENE: Locally in Nebraska?

JOHN HASSETT: Yeah, yeah, keep them all in Nebraska.

GROENE: So how many fans are going to come drive two, three hours, to Bellevue or wherever, to watch one race? How long does a race take?

JOHN HASSETT: A horse-- quarter horse race doesn't even take a minute, yeah.

GROENE: So isn't this kind of-- a better word-- hokey to say you're going to have five live racing meets-- meet days and have-- one maybe could have one race a day?

JOHN HASSETT: No, we're not--

GROENE: How many fans are going to show up for one race?

JOHN HASSETT: No, we're not planning on having one race. I know that's what the statute says, but--

GROENE: But the people who are casino first track--

JOHN HASSETT: Yeah, they're going to have one race.

GROENE: All right.

JOHN HASSETT: We're not. Our casino partner is a horse guy. Our guy running our horse-- oversee the horse operation, he's a quarter horse guy from way back. When he was a GM down at Ruidosa, the All-American Futurity, that's the biggest quarter horse race, purse was \$3.5 million and-- which was more than the Kentucky Derby. The Kentucky Derby raised theirs to meet their-- so no, we're, we're proposing a horse track with a casino.

GROENE: Thank you.

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JOHN HASSETT: Yeah.

LOWE: All right. Any other questions? Seeing none, thank you, Mr. Hassett.

JOHN HASSETT: Thank you.

RUSTY HIKE: Good afternoon, Senators. Thanks for having me. I'm Rusty Hike, R-u-s-t-y H-i-k-e, also mayor of Bellevue. Learned a lot about horses, they didn't teach me how to bet on anything, I noticed here, but I'm trying to figure out how to legislate competition as well while I'm sitting here because there are a few things that I think we have too much of in Bellevue, but the free market takes care of that for us. I also sit on the United Cities, which is all the cities of Sarpy County, and I am authorized to tell you from them, to let you know that they are totally opposed to any legislation that would prohibit economic development projects in, in any other cities, which are all in Sarpy County, five of us. Sarpy County Board, I have a letter attached from chairman Don Kelly. He's also opposed to any legislation that prevents Sarpy County from economic development projects and he doesn't believe that, you know, Legislature should pick winners and losers. There has been a few rumors out there that the base is opposed to a track in Bellevue. I have talked with Colonel Thompson at the base. She is the wing commander of the 55th, who is the host to all the other tenants on the base, so she controls all those tenants. She's talked to all of her lieutenant commanders. There is-- she, she cannot find any opposition to it. So if there's-- if you hear any of those rumors, or hopefully I didn't just start one, but if you hear any, there's no basis on that. Obviously, the city of Bellevue, I've talked to more than, more than half my council. You know, we're, we're opposed to the 50-mile portion of LB876. I've been working on south Bellevue area since I was county commissioner starting in 2008. We got the Highway 34 bridge put in there. It was a \$140 million project. We got the Kennedy Freeway expanded. We're bringing water down there with the south Sarpy sewer system, millions upon millions of dollars spent on that area. For seven years, I've been working on a large entertainment district with the Chamber of Bellevue, which this, this is-- we lost our, our main tenant. The developer walked away from that at that time, maybe a little bit too soon, but this is a perfect project for that area. It's good for Nebraska. The-- I've heard a couple populations. Sarpy County is 190,000 people. Douglas County, I think, is a 650,000-- 550,000, sorry, 560,000, I think. Pottawattamie County is 93,000. Mills County, adjacent to Sarpy County, is 15,000. So that population of 100,000 people has three casinos on it. So when I hear, when I,

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when I hear those ratios, it doesn't make any sense for, for it to be regional. I think it's more population based. With that logic, Douglas and Sarpy County have over one-third of the state's population. If you're using that logic, I think you need to limit the casinos to two casinos in the rest of Nebraska, doesn't, doesn't make any sense to me. And I would just close with saying I've heard that the other casino in Omaha, the other racetrack, is in competition with, with Council Bluffs' casinos. Nebraska is in competition with Council Bluffs' casinos. We're the ones supporting those casinos. Our money is going to Council Bluffs. Thank you.

LOWE: Thank you, Mr. Hike. Senator Groene.

GROENE: Thank you, Vice Chair. I'm sure they came to you with a proposal, the racetrack folks. What's in it for you? What, what did they say the tax revenues-- pretty sweet tax revenues here for the county and the city. What is the anticipated tax revenues?

RUSTY HIKE: I actually went out to John, knowing he's run the-- the keno for 23 years. Great individual, a community guy who's always given the money-- giving his money back to Bellevue and the community and you can't find a better guy. That is what's in it for us. Obviously, the rough numbers, and I don't know the exact numbers, but let's say you got 20 percent of those gambling casinos leave the casino; 2.5 percent of those go to Bellevue, 2.5 percent goes to Sarpy County, and I believe roughly 15 percent goes to the state of Nebraska.

GROENE: So it would be a pretty good windfall.

RUSTY HIKE: Sure. Yeah, absolutely.

GROENE: So you're looking at it for tax revenue.

RUSTY HIKE: Yep, tax revenue. We're also working on some business complex-type stuff, so we're mixing some entertainment business. It's a whole, it's a whole vision for Bellevue, but this proponent really fits into that well.

GROENE: And this will be in the city limits?

RUSTY HIKE: Yes.

GROENE: Thank you.

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

RUSTY HIKE: OK.

LOWE: --thank you.

RUSTY HIKE: Thank you.

LOWE: Any other opponents?

SPIKE EICKHOLT: [INAUDIBLE] to get up front. Sorry. Good afternoon. My name is Spike Eickholt, S-p-i-k-e, last name is spelled E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska and the Criminal Defense Attorneys Association. I hope it's OK if I testify at the same time since our issues are the same. I rarely testify in this committee because we normally don't take a position on these bills. And when I first looked at this bill when I was introduced, I skimmed it really quickly and I didn't think it really had any interest to us. But when I looked at it again this morning, I think it does. And I think that Senator John Cavanaugh, when the introducer was testifying earlier, alluded to that and I tried to talk to Senator Briese beforehand to let him know our concerns, so I apologize for that. The concern that we have about this bill is that the bill itself, really from pages maybe 11 to page 13, increases the penalty for a variety of different offenses related to gambling one step up from a Class I misdemeanor to a Class IV felony, and it does it across the board. There are some increases in penalties when it deals with casino operators, license holders, and that sort of things, and we don't take a position on that. But the increase in penalties that applies to those people who may attend casinos, who may try to gamble, basically regular people, we do have concern about because it does increase that penalty, in our opinion, pretty significantly from a misdemeanor to a felony. For instance, if you look on page 11, lines 12 through 18, and then again lines 19 through 21, it makes it a felony for any person who's playing a game of chance to have sort of phony tokens on them or try to use them to purchase-- to, to bet. I have never been in a casino. I don't know if people can use tokens. I don't know how it works at all, but I can just imagine some young person who thinks they're the first person to think of this trick, making some phony-looking tokens and bringing them into a casino and getting charged with a felony. There's already enough crimes outside of Chapter 9 that deal with theft of services, that deal with minor misrepresenting age, and all those other things that we captured, but this will add an other felony dynamic to that. And in our opinion, it shouldn't be increased at that level. Being convicted of a felony, a Class IV felony is zero to two years. A Class I misdemeanor is zero to one year. That may not seem like much,

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but being convicted of a felony has other significant consequences. First, you're, you're a convicted felon, which if you tell anybody that phrase, they immediately think you've done something violent, you've hurt somebody, you've done something really, really bad. And if you try to explain to them, well, I just had a phony ID and I was under age 21 and I tried to get in a casino, that is a felony under this bill. So those are the concerns that we have. I think that Senator Briese indicated an appreciation of our position. With respect to the increase in penalties for those people who are licensed to operate either a racetrack or a casino, we don't have any problem with that, but the increase of those people who may be attending are caught up in this increased penalty, we do. And I'll answer any questions if anyone has any.

LOWE: Thank you, Mr. Eickholt. Senator Brandt.

BRANDT: Thank you, Chairman Lowe. Thank you, Mr. Eickholt, for testifying. Have you had a chance to research what surrounding states do or the region does in regards to casinos?

SPIKE EICKHOLT: I don't.

BRANDT: OK.

SPIKE EICKHOLT: Admittedly, I don't do much of this. I did talk to Ms. Holman earlier and she said that other jurisdictions do make certain crimes relating to this a felony. And that may be true. I don't know. I'm always sort of exasperated, if you will, to compare Nebraska to other states because we only compare it sort of one way when it comes-- in my opinion, at least-- one way when it comes to setting penalty, and this is if other states set it higher than us, we follow them no problem at all; but if other states decriminalize things, if other states lessen penalties, it's just we can't seem to do that. And I don't mean to be obstinate when it comes to this issue about increasing penalties, or my clients don't, I should say, but the, the frustration that we have is that we never seem to go the other direction, right, or we rarely seem to go the other direction. And in our opinion, again, if you have a license and you're operating something that the state wants to regulate heavily and you do something that's deceptive, if you do something that's improper, that perhaps deserves a felony consequence. But if you are 20 years old and you've got a fake ID-- I'll give you the example of that will work. If you misrepresent your age-- for instance on page 13, lines 13 through 15, a person who participates in a game of chance when they are younger than 21 is guilty of a Class IV felony. So-- and if

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you look at page 13, lines 10 through 12, a person who knowingly permits an individual whom the person knows is under 21, it's a felony. I can see two 20-year-old kids going to a casino, they got their fake IDs, they get in, they get caught and they're looking at a felony.

BRANDT: All right, thank you.

LOWE: Thank you, Senator Brandt. Senator Groene.

GROENE: Thank you. Does self-exclusion-- how do you think they will license-- I mean police that? Is every person who goes in a casino carded?

SPIKE EICKHOLT: I assume they are. I mean, I don't, I don't [INAUDIBLE] assume, but if you have an age restriction, you presumably--

GROENE: The one I've been in lately is Dodge City and you just walk in. I'm pretty young looking. Nobody cards--

SPIKE EICKHOLT: Well, then maybe somebody should monitor them because I--

GROENE: But I mean, I don't see anybody carded.

SPIKE EICKHOLT: Well, I-- well, one at least hopes, if there's a, if there's an age requirement, the casino, one hopes that people who are near the age 21, that casinos are checking ID and making sure that they appear to be 21.

GROENE: But how do you police this? Are you concerned how they police this self-- whatever it called-- self-something-- exclusion?

SPIKE EICKHOLT: Where they sort of have people leave, is that what you mean?

GROENE: Well, no, it's, it's-- people that are addicted to gambling, I think, and-- anyway, are you concerned about, about their rights?

SPIKE EICKHOLT: About the people who gamble?

GROENE: No, that they're on the self-exclusion list that if they do get in and gamble and they win, and it says-- just says bedridden here, they can't pick up their winnings. It's a little late in the game.

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SPIKE EICKHOLT: I don't-- I admit I'm not--

GROENE: I mean, just concerned about their-- have you looked at that section?

SPIKE EICKHOLT: I haven't, but I don't know for sure I even know what self-exclusion means. It means, like, the casinos to somehow prohibit certain people from--

GROENE: Yeah--

SPIKE EICKHOLT: --being there?

GROENE: --if they're on a list or something.

SPIKE EICKHOLT: OK, so if they win too much or they're too good at it or whatever--

GROENE: No, no, no. They're-- they have problems.

SPIKE EICKHOLT: OK.

GROENE: Anyway--

SPIKE EICKHOLT: Well, it may be true. And again, we don't, we don't have a problem with the casinos themselves being held to a higher standard of state regulation. But the problem is, is that you're just going to get-- and I can just see a lot of unsophisticated young people excited when the casinos open, trying to get in there before they're age 21, trying to somehow game and beat the system. They maybe should be subject to some sort of consequence and they already are as a Class I misdemeanor, but a felony, in our opinion, is just too much.

LOWE: Thank you, Senator Groene. Seeing no other questions, thank you, Mr. Eickholt. Any more in opposition? All right, those in neutral.

NATE GRASZ: Good afternoon, Senator Lowe and members of the General Affairs Committee. My name is Nate Grasz, N-a-t-e G-r-a-s-z, and I'm the policy director for the Nebraska Family Alliance. We appreciated the opportunity to work with Senator Briese, the members of this committee, and other senators in the body last year to amend LB560 to ensure the ballot initiatives that were approved by voters were implemented appropriately, but with added safeguards and additional consumer protections in place. We hope that type of collaboration and

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thoughtfulness will continue with this legislation. While we appreciate the effort and intent of the bill to set requirements to limit the number of casinos in our state, we believe that the bar is set too low and that the bill, as drafted, could allow a proliferation and oversaturation of casinos in our state at the expense of families, businesses, and communities. When the ballot initiatives were approved by voters, there were six licensed racetracks in the state. We don't think that people were envisioning a casino every 50 miles, with the only racing requirement being that they hold five, five race days and potentially just five races a year. I have not seen the amendment that Senator Briese brought to the committee today, but it, it does sound like a, a real step in the right direction. Fundamentally, this is new territory for our state. We are about to undergo the largest expansion of gambling in the history of Nebraska. And if we want this to be more than just a smokescreen for casinos to operate in as many places as possible, we strongly encourage the committee to set the bar higher and establish a higher number of minimum race days and minimum races. This is the Legislature's chance to manage the proliferation of casinos before it's too late, and scores of communities across Nebraska are left caring and pain for the social and economic costs that accompany casinos because the requirements to get a license were too low. We firmly believe that there needs to be limits on the number of casinos that there can be in our state. We just simply can't support the bill as drafted at this time, but we do look forward to lending our support to future amendments to strengthen the bill, to add more stringent requirements for the licensing. And we encourage the committee that, as you are contemplating various amendments and trying to balance the many different interests that have been brought to you today, that you will keep the best interests of children and families who will be impacted by the expansion of gambling first. Thank you.

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

NATE GRASZ: Thank you.

DAVID COPPLE: Good afternoon, my name is David Copple. I'm an attorney in Omaha and Norfolk, Nebraska. I'm here on behalf of my client that is the Citizens for Better Norfolk.

LOWE: Can you spell your name?

DAVID COPPLE: I will, I will. D-a-v-i-d. My last name is spelled C-o-p-p-l-e. I represent a group of concerned citizens who-- which is

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comprised of individuals, community leaders, economic developers, and captains of industry in Norfolk, such as Norfolk Iron and Metal and other such organizations. We have engaged, as part of our long ordeal in dealing with the discussion that has focused and circuit--circulated around Norfolk. We have engaged an expert economist to do a study relative to casino gambling in the states of South Dakota, Iowa, Colorado, Nebraska, and Kansas and Missouri. I'd like to share a few observations of that study. These casinos that are being proposed in the smaller communities in Nebraska will not be what, by industry standard, is a destination casino. This will not be like Las Vegas, where people travel from throughout the country or throughout the world to come to those casinos. Rather, these casinos are referred to in the industry as convenient casinos, which by and large draw generally from the local and surrounding areas for their gambling activities. We are of the opinion, based upon the studies, that the large percentage of the gambling revenues that will be done at these smaller casinos will be from local individuals or surrounding communities. We are of the opinion that the casino industry as a whole, and if you look at Colorado and you look at South Dakota, they have shrunk or decreased the number of casinos in each of those two states. If you look at-- and I believe it's-- it's either Kansas City, Missouri, or a state with those populations, there's only four casinos. Nebraska, as you all know, has a population of approximately 1.9 million people. We don't think a casino located in Norfolk, Nebraska, is economically feasible. We've heard people talk about market studies, but no one has produced for the citizens of Norfolk that market study so it could be reviewed and analyzed. We are here as a neutral because we want you to give serious consideration to both the proposed LB786 [SIC] and the amendments, but most specifically, we're here to ask you to give very serious consideration with respect to the distance between casinos. We do not believe, as it's drafted, that it's appropriate. We are asking you to consider more than 50. I've heard 75, I've heard 100, but we think it should be greater than 50 because we don't want, as citizens of Norfolk and my clients specifically, don't want to be put in a position where there's gamesmanship going on so that they qualify because they are 51 miles away from the casino that will be placed in Columbus. We respect Grand Island. We respect Columbus. We respect the existing racetracks. What we're opposed to is the idea of a casino being placed in Norfolk that's premised on the idea of a one-day-a-year racetrack.

LOWE: Thank you, Mr. Copple. Are there any questions? Senator Groene.

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GROENE: Is your-- thank you, Vice Chair-- is your community leaders enticed also by the tax revenues?

DAVID COPPLE: We've heard that argument. We've heard that it's economic development. What we would say-- based on the studies that we have, what we would say is it will result-- in communities of Norfolk's size, it will result in cannibalization both at a macro level, at a micro level, the micro level being the restaurant, the bar that's in Norfolk. They are-- they will have customers and they will have employees cannibalized from their employment to these new proposed casinos. From a macro level, we describe it as it may generate some revenue for the econ-- for the Norfolk or Madison County economy, but it will cannibalize that money from being spent in other activities and other business locations in Norfolk--

GROENE: Can a--

DAVID COPPLE: --or Madison.

GROENE: Can a local community, through zoning laws, just blankly take out gambling as a-- are they allowed to do that?

DAVID COPPLE: That, that's, that's a-- I mean, when you're dealing with zoning, that is another level of analysis. But we are here today to ask the Legislature and your committee to give serious consideration to placing restrictions geographically with respect to the locations of, of "racinos," as they're referred to.

GROENE: Do you understand-- are you not under the understanding that the Racing Commission can trump local--

DAVID COPPLE: We understand that.

GROENE: --local-- they can, they can.

DAVID COPPLE: Well, we understand that the legislative body has a role in this. We understand the commission has a role in it. We have had communications with representatives of the commission. We are here today so that you hear the citizens of Norfolk expressing to you our concerns.

GROENE: Thank you.

LOWE: OK. Thank you, Senator Groene. Senator Wayne.

WAYNE: How many memberships are in your client?

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DAVID COPPLE: Pardon me?

WAYNE: How many members are in your client?

DAVID COPPLE: There are-- there is an executive committee that consists of at least ten individuals and there are over 100 individuals, neighbors, those types of people, that are concerned about this.

WAYNE: And how many people are in Norfolk?

DAVID COPPLE: Approximately-- I don't know what the 2020 Census was, but approximately 25,000 in, in Norfolk proper.

WAYNE: Thank you.

LOWE: Yeah. Thank you, Senator Wayne. Any others? Thank you, Mr. Copple--

DAVID COPPLE: Thank you.

LOWE: --appreciate it.

TOM SAGE: Good afternoon, Vice Chair and Senators. My name is Tom Sage, T-o-m S-a-g-e. I'm the director of the Nebraska Racing and Gaming Commission. It's a pleasure to be here today. This is the first time I've appeared as a director of the Racing and Gaming Commission before a legislative body since we just were created. We are neutral on LB876. The reason why we're neutral on LB876, and I know Senator Wayne likes to hear this, we like to be able to answer your questions. And I know there's a lot of questions and I wrote some notes on some of the questions that were asked, anticipation of being asked right now. But there's one thing I do want to bring up to the committee. I've spoken with-- I don't know if it made it in the amendment or not, but it would be page 6, line 11. This discusses the penalty for an operator after the first 12 months of operation, which is great language, and, yes, we proposed that. It's being used in a number of other states, but we won't have any casinos in operation to have the penalty. We-- I believe we need to have something, a monetary fine, \$50,000 until they're in operation for 12 months, something to that nature. With that being said, I'm open for questions. I know there was a little bit of, I thought, maybe confusion on race days and races. So state statute says you have to run one breed race to be considered a race day. OK, then we got into race days. So if you're talking about 120 days, if you run ten races

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a day, you can be done in ten days. Is that a long race meet? I'm not sure. But anyway, I'm open for questions.

LOWE: All right. Thank you, Mr. Sage. Senator Brandt.

BRANDT: Thank you, Chairman Lowe. Thank you, Mr. Sage, for--

TOM SAGE: Sure.

BRANDT: --your testimony today. Can you tell me what the status today is? I know the rules have been approved by Racing and Gaming, and the last I heard, they were at the Attorney General's Office. Is that correct?

TOM SAGE: That is correct.

BRANDT: And how long will he have them until it goes to the next step?

TOM SAGE: Senator, we do not have a timeline in Nebraska with the rulemaking process of how long it could sit in the Governor-- or, excuse me, in the Attorney General's Office. I know of no timetable.

BRANDT: So how does that process work? If the AG's Office found a problem with the gaming rules, does it go back to your commission?

TOM SAGE: That is correct.

BRANDT: And then you guys revise them and send them back?

TOM SAGE: We would have to go through the hearing process again.

BRANDT: OK, thank you.

LOWE: All right. Thank you, Senator Brandt. Senator Groene.

GROENE: Thank you. I'll try to keep my questions short. So you wear two hats right now?

TOM SAGE: I--

GROENE: You-- you license casinos and then you license racetracks, right?

TOM SAGE: That's correct.

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GROENE: So the ones with existing racetracks, they will bring you proposals on casinos and you will follow whatever we put into statute. And then the people who want a new racetrack will bring you a proposal for a racetrack, right?

TOM SAGE: Yes, sir.

GROENE: Casino won't have anything to do with that decision.

TOM SAGE: We're-- we're going to look at the racetrack first.

GROENE: All right. Is there parameters that you look at that affects or that you have put in or is it by statute or is it by regs that you'll put in that you consider, when you put a new racetrack in, how it affects the entire industry--

TOM SAGE: Yes--

GROENE: --without considering the viability of a casino?

TOM SAGE: Yes, Senator. In our rules of racing, it would be rule point two-- point-- or, excuse me, 2.005, and I can work with your counsel and make sure you get this: The criteria de-- determining race day allotment [SIC]. And it goes on: to-- to maximize revenue for the state, high quality of racing, the best facilities, so on and so forth. So those are the criteria that we would right now look at a new racetrack, along with making sure they comply with all the safety requirements. So it's not just tilling up a stretch and running down there. They're going to have to have safety rails, they're going to have to have the correct cushion, many, many different aspects of the racetrack, but really, as a criteria, as you're asking, the only thing we have right now is in 2.005.

GROENE: So arbitrarily you can decide if that race track is feasible or if they--

TOM SAGE: Our-- our-- our commissioners--

GROENE: It affects the entire-- you don't look how it affects the entire racing community?

TOM SAGE: By the way I read 2.005, they would take into consideration the entire racing community.

GROENE: So if somebody came to you and said, we're going to run, run a race, we're gonna put this quarter horse track in there?

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TOM SAGE: Um-hum. It would be up to our commissioners to decide. I don't make that decision. Our five-- or seven commissioners-- now we have six commissioners-- would-- would make--

GROENE: They would decide if that's good for the racing industry--

TOM SAGE: Correct.

GROENE: ---in Nebraska? Would they decide that this community followed all of these statutes and [INAUDIBLE]

TOM SAGE: Senator, I can't answer that, how our commissioners would rule on that. That was not--

GROENE: It's a lot of arbitrary.

TOM SAGE: Yeah. Yeah, and I think that's why they're really looking for guidance from you, and that's where LB876 was very important, about how to establish the criteria for the casinos.

GROENE: So do you see this statute and the statutes we have as, hey, if they follow all these rules, they bring an application, you are bound to approve it?

TOM SAGE: I think the commission, if they went by everything legally, I'm not sure how they would or would not rule on an application. They're looking for guidance from this body.

GROENE: So they would want to know if they can limit some kind of economic factor in the racing industry to make sure that we just-- they don't bring you-- they match everything in this law, that you have to approve it?

TOM SAGE: Senator, that's why I'm testifying in a neutral capacity. We're looking for guidance from this body.

GROENE: So far, you haven't gotten it.

TOM SAGE: No, I was hoping-- you know, we're hoping--

GROENE: Would this give you--

TOM SAGE: --maybe this could give us some guidance.

GROENE: Would this give you guidance if you-- if you can take some statewide actual perception into it that affects the entire racing or if it's a feasible-to-stand-alone racetrack?

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TOM SAGE: I think it would.

GROENE: This does?

TOM SAGE: I think so.

GROENE: All right. Thank you.

TOM SAGE: But as a neutral standpoint, no, I mean, I don't-- I'm not sure. That's where we're looking for your input.

GROENE: But you did not testify in favor of this.

TOM SAGE: I'm neutral.

GROENE: Thank you.

LOWE: Thank you, Senator Groene. Senator Arch.

ARCH: Thank you. I want to-- I want to do a little reality testing with you here. We've-- we've talked about a number of races, number of days, some-- some type of a-- of a standard to-- to be recognized as a racetrack. If-- if you went with 120 races, you said about 10 a day?

TOM SAGE: Could, depending on your horse population.

BRANDT: Yeah. But, I mean, so-- so 12 days, you could get through 120 races in a year.

TOM SAGE: Um-hum.

ARCH: Generally, those are raced on Friday, Saturday, Sunday? Is that--

TOM SAGE: It-- it really-- as of it's been-- excuse me, lately in Nebraska, yes, Friday, Saturday, Sunday--

ARCH: OK, so--

TOM SAGE: --in the--

ARCH: So that's-- so that's-- if-- if you're doing 12 days, say, that's a month.

TOM SAGE: Correct.

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ARCH: It may not be a month exactly per track or--

TOM SAGE: Exactly.

ARCH: --but about a month. So your-- your race season is how many months?

TOM SAGE: Well, right now we race 52 days. That's the--

ARCH: I mean as far as your-- as far as the season goes. In other words, you're probably not racing horses today, right, January?

TOM SAGE: No, and that's where I am-- if I could finish here?

ARCH: Sure.

TOM SAGE: We're race-- right now, we're racing 52 days. We will start the 18th of February in Grand Island and we'll end, I believe, it's the 30th of June, maybe it's the 29th. This is kind of a strange season this year because the anticipation is get racing done so then the construction can be-- be done, you know, starting in the-- the spring or-- or late spring, early summer. In some years past, again, we've started-- at Fonner Park, it's always traditional to start around, you know, the second or third week of February. That's their-- been their traditional dates, run those dates. A few years we've had gaps and then didn't come back to racing until like the first part of August. In the heydays with Ak-Sar-Ben, literally, you started February and you ran through October, or I can even remember it running almost to Thanksgiving. There were more tracks. You gotta consider they were running 85 days, 90 days at Ak-Sar-Ben at that time frame.

ARCH: But if you want-- if-- if-- people talked about a circuit--

TOM SAGE: Yeah.

ARCH: --where, I mean--

TOM SAGE: Yeah.

ARCH: --to make it economical, you-- you-- you really need to move the horses and-- and race different places. You-- you-- I mean, I'm just running the numbers here. You may be talking about six, seven, eight tracks. I mean, you run out of months, right?

TOM SAGE: Um-hum.

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ARCH: You're not running over Christmas--

TOM SAGE: Correct.

ARCH: --you know, so-- so maybe if-- if we set the bar at about 120 races, you're probably talking about, you know, six, maybe seven, maybe eight tracks in the-- in the state. To maximize, to be efficient, to have a circuit, to get your races in, to do it on Friday, Saturday, Sunday, you're not doing it on Tuesday and Wednesday, is-- is that-- that's why I say I want to do a little reality testing with you. Is that a reasonable assumption?

TOM SAGE: I think it is, but you have to also put in the component that it's entirely possible you could be running thoroughbreds at one location and quarter horses at another location.

ARCH: Right, so that circuit--

TOM SAGE: For instance, you could be running at Lincoln--

ARCH: --that circuit does--

TOM SAGE: --and you could be running your quarter horses out in Gering--

ARCH: Right.

TOM SAGE: --if that becomes the facility, so that window narrows a little bit.

ARCH: OK. All right. That's fair.

TOM SAGE: OK.

ARCH: OK, thank you.

LOWE: All right. Senator Groene.

GROENE: A follow-up question to Senator Arch.

TOM SAGE: Sure.

GROENE: You said-- he's talking about 120 races, but we could-- we could say you could have-- you'd have to have 15 days or whatever and a minimum of five races a day--

TOM SAGE: Yes, you could, absolutely.

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GROENE: --about horse racing. Does-- is the Kentucky Derby the only race ran that day at that track?

TOM SAGE: No.

GROENE: It's a full schedule?

TOM SAGE: Yes, sir.

GROENE: All right, so the body can't stop casinos, but we could change the laws on race-- horse racing and limit days and tracks, couldn't we?

TOM SAGE: I think you could.

GROENE: Thank you.

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

TOM SAGE: OK, thank you.

LOWE: Thank you, Mr. Coll-- or Sage. Are there any others in the neutral? Seeing none, that ends our-- or, Senator Briese, would you like to close?

BRIESE: Just very, very briefly, I don't really have anything to add. I just want to thank everyone for the great testimony today. We heard a lot of great information that I think is going to be very helpful as we go forward in addressing these issues in this bill and the amendment. So with that, I'd take any questions.

LOWE: Are there any questions? All right. Thank you, Senator Briese, and that closes the hearing on LB876. Now we'll start on LB877. Senator Briese, welcome back to your committee.

BRIESE: Thank you and good afternoon again, Vice Chairman Lowe and members of the General Affairs Committee. I'm Senator Tom Briese, spelled T-o-m B-r-i-e-s-e. I represent District 41. I'm here today to introduce LB877, a bill to make some necessary changes and updates to the Racing Commission statutes. The changes proposed in LB877 include the following. It adds new language which makes a violation of Section 2-1219 by a commissioner cause for removal from the commission. 2-1219 generally deals with conflicts of interest. This bill amends one of the two new positions on the Racing and Gaming Commission to require the person appointed to the position to have experience in the Nebraska horse racing industry. You may recall the

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ballot proposal requires one of the members to be a member of the organization representing the majority of licensed owners and trainers of horses at racetracks in Nebraska. I think this is fairly restrictive, and this change broadens the pool of applicants somewhat. I think it's a good change to put in place. We added a specific number of days per year that the commission is required to meet. We made that number eight days. Currently in statute, it says the commission is required to meet at such times and places as it shall find necessary and convenient for the discharge of its duties. Putting a number in there will help ensure the work of the commission occurs in a timely manner, and I believe that was at the request of Director Sage. We've also increased some of the fines the commission is allowed, not required to assess but allowed to assess, that are set in statute. We've made it so that racing licenses may be issued for five years instead of the current one year, and we increase the number of required racing days up to five, up from the current one, similar to the other bill. Note that new tracks would be required to hold one day of racing per year the first three years, and then five would be required. And again, I think lengthening the term of the-- lengthening this will ensure some stability and consistency. And again, requiring a certain number of race days should help move our horse racing industry forward. We're proposing the amount paid to the commission by the racetracks be increased from the current rate of 64 one-hundredths of 1 percent of the gross sum wagered by the parimutuel method to 2 percent. This section also increases the amount paid by the racetrack licensee from \$50 to \$100 for each live racing day that the racetrack serves as a host for interest rate simulcasting and an increase from \$25 to \$50 for any live racing day. And this really is an effort to help ensure the commission has the resources necessary to do its job. And, you know, this, like many other things in here, is a provision that I assume Director Sage can help answer some questions about. This bill also proposes to allow racetracks to hold race days on Sundays going forward by striking sections 2-1213 and -1213.01. Finally, we increase some penalties from Class I misdemeanors to Class IV felony for certain criminal acts listed in these sections, and, again, we-- we could be a little broad in here for some of the reasons that we discussed regarding the previous bill. So that really concludes the changes made by this bill. I'd be happy to answer any questions, but I know, or I assume, Director Sage will be here to testify, and I'm positive he'll have some additional perspective on some of this, but be happy to answer any questions.

LOWE: Thank you, Chairman Briese. Are there questions? Senator Arch.

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ARCH: Thank you. In our-- in our note for the-- that-- that summarizes the bill here, it-- it-- it's-- it makes a statement that the commission is underfunded. Does that-- so is that the-- is the balance being funded by General Fund? What-- what funds the commission?

BRIESE: I don't rec-- I'd say let's have Director Sage answer that.

ARCH: OK.

BRIESE: But it's my understanding that we are severely underfunded, difficulty in getting some of this done. And when we're talking about expanding the racing industry in Nebraska and its having a-- you know, it would seem only reasonable that we might need some additional funding. But again, with that expansion of the industry, maybe these rates wouldn't have to go up, so that might be a great question for him when the time comes.

ARCH: Thank you.

LOWE: Senator Groene.

GROENE: Thank you, Vice Chair. Senator Briese, new language is added to this section to require a racetrack to hold a minimum of five live racing days annually by January 1. Did the Benevolent Society, the people who actually raise the horses, talk to you about making them have more races per day?

BRIESE: More races per day instead--

GROENE: Well--

BRIESE: --instead of race date--

GROENE: --to make sure there was just not one race for five days.

BRIESE: Right. There are some folks that talked to us that suggested we ought to be talking about number of races instead of days. I do think that makes a whole lot more sense probably.

GROENE: Oh, combine the two.

BRIESE: Yeah, probably. It makes more sense than what I have in here, I would say.

GROENE: So--

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BRIESE: I think you probably should be talking about races instead of race days.

GROENE: So I'm not-- nothing against the racetrack in-- in Hastings. I told a guy in Hastings to move his racetrack to North Platte, get further away from Grand Island, but-- but we'd sure like to see some actual horse racing there.

BRIESE: Yes.

GROENE: I probably wouldn't go to the casino unless they had a hell of a prime rib for 10 bucks, but-- like down in Dodge City, but I wouldn't mind seeing a horse race.

BRIESE: Yes. No, I-- I-- I agree. And so again, when I talk about-- when I presented it as race days, I think the better option probably is actual races, a certain number of minimum races. And again, we're probably going to have to ramp up into it for the reasons we've talked about here today.

GROENE: No, I appreciate all the work you've done on this. You've become an expert on ra-- on--

BRIESE: Well, don't confuse me with an expert, Senator.

GROENE: Well, I'm sure you've bought some mares. [LAUGHTER] But-- but anyway, how do you see this-- is there any-- any mechanism in here that the Racing Commission could limit the number of tracks, or do you see them having to approve anybody that follows all the rules?

BRIESE: Well, number one, I think, you know, the state will only support a certain number of races, a certain number of tracks. And so I-- I would think we would want all the tracks we could get if the state could support it, if we had the racing industry to support it. I don't think that would be a bad thing. But secondly, regarding the casinos, I think they're-- that's a different issue there. The casino licenses, I think, are a different issue.

GROENE: That's what I guess--

BRIESE: I don't anybody wants unlimited numbers of casinos, regardless of any economic impact study that might say otherwise, which I assume there never would be one that would say that, but--

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GROENE: But there's nothing in here to give guidance to the Racing Commission to make sure that-- that the race-- the racetrack itself is viable.

BRIESE: Well, yeah.

GROENE: And it-- and it actually improves--

BRIESE: Right. Right.

GROENE: --the horse industry.

BRIESE: Yeah.

GROENE: One race a day, five days--

BRIESE: Yeah.

GROENE: --for five days doesn't seem to me is going to be-- have many more folds in this state.

BRIESE: You know, maybe we should require that feasibility study that we talked about in-- in the amendment to the last bill, a similar feasibility study that addresses the feasibility of additional tracks.

GROENE: Put that as a--

BRIESE: [INAUDIBLE] dealt with casinos. Maybe it ought to deal with tracks.

GROENE: Put that as a requirement to the Racing Commission that they have to do a feasibility-- a profitability study-- track itself?

BRIESE: Yes, that was one of-- that was one of the proposals in the amendment relative to the casinos, not-- not the right track.

GROENE: Why not the track?

BRIESE: Yeah, I don't disagree. Maybe that would be a good idea.

GROENE: Thank you, sir. Thank you.

BRIESE: Great. But the other point I think it was Tom Jackson made, you know, I think he suggested maybe a minimum amount of investment for these new tracks, and that would solve part of the issue maybe you're getting at there. We would ensure that they're of sufficient

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quality and sufficient investment, that they would be attractive, and-- and it would-- it probably would limit the number of tracks.

GROENE: I don't know. If they're willing to pay \$5 million for an application fee, I think they'd spend \$2 million to build a track and just sit out there and mow the weeds once in a while.

BRIESE: Yeah, I think he suggested ten.

GROENE: All right, thank you.

LOWE: Thank you, Senator Groene. Senator Brandt.

BRANDT: Thank you, Chairman Lowe. Thank you, Senator Groene, for bring-- or Groene-- Briese, for bringing the bill. I was complimenting Senator Groene, following up on what he said. I agree with him that we need to draw a hard line in the sand, whether it's a formula that dictates this or just a flat number of tracks, because I think an unintended consequence of all of our work over the last two years will be somebody is going to get cute and figure out that Valentine, Nebraska, is outside of the circle, or Merriman or-- or they're going to find these-- these spots in the state where-- that they can put a low-cost horse track and comply with the, you know, I guess, the letter of the law, not the intent of the law, so I guess I would encourage us to work on-- on some method of-- of giving some direction to our Racing and Gaming Commission.

BRIESE: Sure. You know, I-- I don't disagree at all. And, you know, again, one method might-- one step might be to require a min-- certain number of races per year. Another one might be talking about that minimum amount of investment needed before a license is issued. There's probably other things we can do too.

BRANDT: All right. Thank you.

LOWE: Thank you, Senator Brandt. Senator Briese, I see no other questions. And you will stay to close?

BRIESE: I will stay for close.

LOWE: OK.

LYNNE McNALLY: Hello. Lynne McNally, L-y-n-n-e M-c-N-a-l-l-y, chief executive officer of Nebraska Horsemen's Benevolent and Protective Association. We are in support of LB877. It has good changes in it. I'm hoping that the-- the 16- to 75-year age range is that if you're

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older than 75, you don't charge for the license, I'm hoping. I'm hoping it doesn't mean you can't get one if you're older than 75. The-- the one concern I have is there's federal legislation that has passed as-- and is in effect today, called HISA. It's the Horseracing Integrity Safety Act. And the feds have determined that they are taking over all testing for racing from now on, but they have not established any rules, guidelines, who's doing the testing. Everything is completely and totally up in the air. I think Executive Director Sage will tell you that the bulk of their budget is spent on testing for races, so what happens with HISA makes a huge difference on what happens with their budgetary needs for-- for the Racing and Gaming Commission. So I would just ask that you take that into account. As I said earlier, the Horsemen do not have a penny more to spend today than we had a year ago when this passed, and it doesn't look like we're going to have additional funds available for quite some time. As was mentioned, the rules and regs haven't even been sent back from the AG's Office yet, so we have absolutely no idea when we might be getting additional funding from-- from any casino operations. So a bump in the-- in the percentage rate right now would be a tremendous burden for the industry. I would just ask you to take note of that. I absolutely love your idea, Senator Groene, of doing a study and requiring some kind of study of the-- the racing market itself and whether something can be supported. This is all we care about, is-- is live race days. That's what we're going to spend all of our revenue on from Lincoln and Omaha is racing. That's all we want. So any-- any guidance or parameters you could give to the Racing and Gaming Commission would be very, very appreciated. That's all I've got. Thank you.

LOWE: All right. Thank you, Ms. McNally. Are there any questions? Seeing none--

LYNNE McNALLY: Thank you.

LOWE: --thank you.

CHRIS KOTULAK: Hello again. My name is Chris Kotulak, C-h-r-i-s K-o-t-u-l-a-k. Again, I'm the CEO of Fonner Park. I want to go back a little bit to some of my opening remarks when I was speaking about LB876. I think much parallels in LB877. I was talking on a national scene about horse racing and the-- what's going on in horse racing. Regarding the 150-mile radius, there are very few states that conduct horse racing that have racing within 150 miles of each other. New York, California and Kentucky can stand on-- on their own. They are the big three in horse racing. But those that do have horse racing

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within a 150-mile radius are also states with cities that have a million-plus as far as population goes, so that population is huge not only for the support of those who would work at the casinos, but at the racetrack as well. And I want to point back to the racetrack because that is LB877. The number of people that work on the racetrack just continues to diminish each and every year. We have one veterinarian at Fonner Park that, when we're full, will have 700 horses. When I was back at Fonner Park in the early days, in the '80s, we had four veterinarians and they were hustling then also. If-- if we are to open up more racetracks, it's not only veterinarians, it's-- it's the farriers, it's the horseshoers, it's the grooms, it's the exercise riders. There are people working on the racetrack now at Fonner Park that-- that I know by name from going back to the '80s. It's a lifestyle for them and for some, that's what they stuck with. It will be so difficult to attract people to come to work at the races with the nomadic sort of a lifestyle that it is. And-- and I started off also-- last time I spoke on LB876 was to try to create awareness, and I think it is crucial that all of the senators and the decision makers realize that we don't-- while it has taken place in our state already with this little pop-up sort of a carnival, one race or one race day, that is not the healthy way to conduct horse racing. Senator Groene had some very good questions, and I hope the barrage continues for me because I have some more to say about conducting a race meet, putting on a program that is safe for horses and that is healthy for horsemen. Thank you.

LOWE: Thank you, Mr. Kotulak. Are there questions? Senator Groene.

GROENE: How many racetracks do you know in-- in-- in the United States?

CHRIS KOTULAK: There are roughly 75 thoroughbred racetracks that would race in 2022.

GROENE: In the entire United States?

CHRIS KOTULAK: In the United States, yes.

GROENE: So we've got half percent of the population, three-quarters of percent of the population, and we might end up with nine or ten?

CHRIS KOTULAK: California has 39 million and is the only track that has six thoroughbred racetracks, and Nebraska is looking to row a boat to the moon to think that they can have more than six thoroughbred racetracks with a population of 1.9 million.

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GROENE: This is a personal question because you forgot horse massagers. Do you got any of those? [LAUGHTER]

CHRIS KOTULAK: We do, yes, yes.

GROENE: You got a shortage of those? You mentioned-- you forgot to mention them in your list of--

CHRIS KOTULAK: Chiropractors, equine massage therapists, they do exist, yes.

GROENE: Thank you.

CHRIS KOTULAK: But that's just one of the many, Senator, that you-- to expect to put on a proper race meet, it just doesn't happen just-- there's so much that goes to it. And it's not just the racing. It's-- if I was a plumber or a-- or a painter, I had a concrete business and I lived in Columbus, but, oh, great, there was racing in Lincoln and Omaha, all you have to do is just drive there to get there, so every day I'm going to have to drive my trailer to do my profession, to go an hour or so one way or another, to commute back. There's also training in the morning, so these horses have to have a place to-- to live, to be kept, to train for a whole race meet. A trainer might have 30 horses and if he's asked to go to Valentine, as Tom-- Senator Brandt said, or Merriman, what's going to happen with those horses that won't fit, quite literally, fit in the type of races that are offered to them but fit in the stalls? If there are only 100 stalls or 200 stalls in the two or three barns, what-- who's going to take care of those other horses? These-- these horsemen, they don't have the caregivers for the horses right now. I'll-- I'll finished by one more thing. I talked to some trainer a week ago: Hey, John, good to see you back. He was at Fonner. He'd come back. How many horses do you have? Well, I've got six now, but I-- I'm going to get four here in a couple of weeks. Great. Who's your groom? Me. Who's taking all of those horses? Me. It's just him. When I was started-- when I started cleaning stalls, we could get specific on what that is but I don't think we need to, but most grooms had four horses. We've got trainers rubbing ten now.

GROENE: Is it a requirement to have a veterinarian on-- on the grounds during racing?

CHRIS KOTULAK: Well, I would sure as hell hope so, but I'm not sure what the Racing Commission-- there's-- there's track vets and then

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state vets, but horses have aches and pains, as any athlete would, so we would need to have veterinarians there.

GROENE: So the testing now is done by the state?

CHRIS KOTULAK: Yes.

GROENE: Because I've been told you can't even have an aspirin show up in a race horse.

CHRIS KOTULAK: That depends on some-- there are some drugs that are zero tolerance and some have-- have a small amount tolerance as well. But each racetrack has a test barn and-- and the test barn needs to have people working in those facilities as well.

GROENE: So they go-- how is the-- how would a racetrack with one race a year do the testing? Do they have a portable lab or some
[INAUDIBLE]

CHRIS KOTULAK: Yes, they-- they would have a lab. Each racetrack would have a lab.

GROENE: And a technician working there that--

CHRIS KOTULAK: Correct. And they would have to have stewards and they would have to have outriders and they'd have to have an ambulance crew and they would have to have admissions people and they would have to have all of these other people that work with the horses as well.

GROENE: All right, thank you.

CHRIS KOTULAK: You're welcome.

LOWE: Thank you, Senator Groene.

CHRIS KOTULAK: I apologize if I-- the voice goes up a little bit here.

LOWE: No, that's-- that's fine. When your season comes to an end--

CHRIS KOTULAK: Yes.

LOWE: --do those veterinarians, the-- the-- Senator Groene's horse massagers, the other people, do they then travel to the next track, so they just kind of follow the races around the state then?

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CHRIS KOTULAK: Correct. Fonner Park will begin our 69th season of racing on February 19. We have 37 race days and roughly nine to ten races a day. When our meet ends, those roughly 750 horses that are stabled at Fonner Park, or will be once the race meet starts, almost 500 of them will leave the state. Only 200 or so remain in the state to go to Columbus or Lincoln or Omaha or whatever else is next because the racing opportunity is not there in Nebraska. Why stick around for one race at one furlong or why go to Columbus for only 12 days of racing? They do, because if-- if they have to, they will. But the majority of them leave because there are greener pastures elsewhere in-- in Wyoming, in Colorado, in Minneapolis and Iowa, Oklahoma, Indiana, Kansas. I beg your pardon, not Kansas. So they-- they leave the state because there's not enough racing that is being provided to them.

LOWE: So not only the horses and the owners, but all the essential staff members that put on a race.

CHRIS KOTULAK: Yes. Yes, the-- the farriers, the veterinarians, the exercise riders, all crucial to the show.

LOWE: All right. Thank you very much.

CHRIS KOTULAK: Thank you.

LOWE: Other proponents?

JARED EASTERLING: Hello, my name is Jared Easterling, J-a-r-e-d E-a-s-t-e-r-l-i-n-g. I serve as general counsel of Global Gaming Solutions and Global Gaming Nebraska. You heard from Mr. Boyd earlier regarding LB876. Global Gaming Solutions owns Remington Park in Oklahoma City and also owns and operates Lone Star Park in Grand Prairie, Texas. Oklahoma has racing and gaming, similar to what you all are running up against here now, and so I have had the privilege of representing Remington Park through about five to six years, not only negotiating with horsemen and racetracks, so I've represented both, both the gaming operator and race-- racing operator. Rem-- Lone Star Park doesn't have that same situation because there isn't any gaming in Texas right now. You heard Oklahoma market, Remington Park, has grown its horse racing industry tremendously. I know there are studies everywhere, and I could present papers that show that, but the gaming market has definitely increased that horse racing industry in Oklahoma, and I-- and I think you're on track to do the same thing here in Nebraska. My client supports LB877 and the changes that have been made to the racing statute. I think naturally there will be a

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progression to those tracks that increase purses for the horses and the horsemen. Obviously, that's going to take a graduated scale based on the horse market that has been testified about today. It's going to take time to grow that market. And obviously you incentivize folks to come as you have purses that are grown through the gaming market as well. So I just want to testify today and more than anything, answer questions that you may have. So that experience, both representing a gaming operator and a racing operator, I think most definitely the two are tied together through this statutory system. I don't think that, you know, this is your last opportunity to take a look at it, and I think there's going to be growth over the next few years in this horse industry in Nebraska. And so you're-- you're definitely going to look at it again. So I don't think this is the end-all, be-all, but definitely going to take growth here in the-- in the near future. Happy to answer any questions you may have.

LOWE: Thank you, Mr. Easterling. Senator Groene.

GROENE: So the one in Oklahoma City, what'd you call that park?

JARED EASTERLING: Remington Park.

GROENE: How long's it been in existence?

JARED EASTERLING: I think '87.

GROENE: When did they pass casino gambling?

JARED EASTERLING: 2004.

GROENE: So is there regulations-- and they have a racing commission there, I'm sure.

JARED EASTERLING: That's correct.

GROENE: Would-- do they allow one day-- one race a day, once a year?

JARED EASTERLING: No, and-- and I'll-- no, they do not. There is a minimum statutory race requirement for both thoroughbred and mixed-breed races for horse races.

GROENE: Do you know what it is?

JARED EASTERLING: I think it's-- I don't-- I've got it behind me right now, but I think it's around 500 for quarter horse and 600 for thoroughbred.

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GROENE: What do-- at a track?

JARED EASTERLING: Yeah, to hold a license. So for-- for the Remington Park track itself, it's broken down into population. Now I could be a little bit off on that but--

GROENE: And that's a quarter horse.

JARED EASTERLING: Quarter horse, and then the thoroughbred, there's a separate requirement for each.

GROENE: And they have to have 500 races--

JARED EASTERLING: Um-hum.

GROENE: --or 500 entries?

JARED EASTERLING: And we-- and at Remington Park, we exceed that by about 10 to 15 each year, I think, for about thoroughbreds and quarter horses.

GROENE: So how many days?

JARED EASTERLING: We start in March and I-- for the quarter horse and it ends in June, I believe or-- or May is when that-- when that meet ends, and then thoroughbred starts around September and ends in December.

GROENE: But in Oklahoma, you can have casinos unrelated to racetracks, right?

JARED EASTERLING: Not technically. Those tribe-- they're tribal casinos pursuant to a compact.

GROENE: You said you have 23 in Oklahoma.

JARED EASTERLING: That's right. Those are tribal casinos operated outside and independent of the state of Oklahoma, but they also--

GROENE: They're tribal. All right.

JARED EASTERLING: Yep, so they have a contact with the state, and so dealing with that many casinos in the state of Oklahoma, Remington Park has been able to thrive with a limited number of machines and grow that racing industry.

GROENE: It's not a tribal.

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JARED EASTERLING: Right, it's a commercial casino. There are three racetracks in Oklahoma, I'll caveat that.

GROENE: And they each have a casino?

JARED EASTERLING: They do.

GROENE: And they each have to have 500 to 600 races a year.

JARED EASTERLING: Now the smaller ones are limited. There's one meet that is a fair meet and it's limited, and the other one is Will Rogers Downs. It's in a smaller county and it's limited on how many it has to race, I believe. I don't represent them, but as far as Remington Park's concerned, that is what they have to run.

GROENE: Thank you.

JARED EASTERLING: And I'll tell you, the-- the-- the commercial racetracks are limited in casinos in Oklahoma. There can only be three, technically, so.

GROENE: So in Oklahoma, they did put the horse before the casino.

JARED EASTERLING: I don't think so. I-- I-- I think that had to do with the compact with the tribes and the exclusivity that the tribes negotiated, so that was--

GROENE: Well, but you can't have a casino unless you have 500 races.

JARED EASTERLING: Um-hum, correct.

GROENE: So they put the horse before the casino.

JARED EASTERLING: I-- I--

GROENE: The track has to be viable before they--

JARED EASTERLING: Yeah, I mean, the track was already there, to be honest with you, to be fair, and so it-- it did supplement that industry and grow it, I think.

LOWE: Thank you, Senator Groene. So do you represent the Chickawah [SIC] Nation also?

JARED EASTERLING: Yes, I do represent the Chickasaw Nation. Yes, sir.

LOWE: Chick-- Chickasaw?

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JARED EASTERLING: Yes, sir.

LOWE: Excuse me.

JARED EASTERLING: No, you're fine.

LOWE: And you're thinking about North Platte and Gering?

JARED EASTERLING: That's correct.

LOWE: For Senator Groene's sake, will there be good prime rib?
[LAUGHTER]

JARED EASTERLING: Operations guy is right back there. He-- he can--
he can testify to that one, but I hope so.

LOWE: OK.

JARED EASTERLING: All right.

LOWE: Thank you very much.

JARED EASTERLING: Thank you all.

LOWE: Anybody else who's a proponent? Proponent?

ED ZIEMBA: Hello again, my name is Ed Ziemba, last name spelled Z-i-e-m-b-a. I'm with the Nebraska Quarter Horse Racing Association, and I'm here speaking in favor of LB877. I-- I have a copy for each of you of my notes. I'll just try and hit the high points here in the interest of time. When the voters of the state passed these three initiatives in 2020, they provided for expanding the existing five-member Racing Commission to a seven-member Racing and Gaming Commission. The bill-- excuse me, the current bill would amend the qualifications of one of those commissioners to be someone with experience in Nebraska's horse-racing industry. It is a positive for racing and for the agricultural community to have an individual on the commission that represents the entire racing industry. The owners, breeders, trainers and other stakeholders in Nebraska horse industry deserve a full voice. I need to emphasize something right now, and that is that I believe the existing Race Commission members, the five that we had on [INAUDIBLE] have done an excellent job of providing guidance and-- and-- and support for the horse-racing industry. One of the goals of the initiatives was to use horse racing as a vehicle for gaming, certainly, but also to expand racing opportunities in the state. Each gaming facility needs to be, is

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required to be, tied to a racetrack. Revenue increases generated from gaming at these facilities will allow for increased purses, as well as the ability to host additional race days. We have already seen an increase in the interest and the registrations with the Quarter Horse Racing Association, more horses, more races, additional racing days, not only at our existing track in Hastings, but at proposed tracks for North Platte, Gering. We're looking forward to expanded racing and more race days with increased purses, as well. Reinvestment in the horse industry must be a contributing factor in the current and planned expansion of facilities. This is especially true for those in western Nebraska to support our agricultural community. Racing can have a considerable positive economic impact for those communities. Finally, one of the keys to success, while in developing a long-- we are in the process of developing a long-term plan to support additional race-- races at current racetracks and potentially future racetracks. The Quarter Horse Racing Association and Global Gaming Nebraska continue to discuss how best to implement a robust racing product that will provide a multi-day schedule and offer a circuit among the tracks in Hastings, North Platte, and Gering that supports Ne-- western Nebraska and all of Nebraska's agricultural community.

LOWE: Thank you very much, Mr. Ziemba. Are there any questions? Seeing none, thank you.

ED ZIEMBA: Thank you.

LOWE: Are there any other proponents? Any other proponents? Seeing none, I'll now take opponents. Are there any opponents? Seeing none, those in the neutral?

PAT LOONTJER: Pat Loontjer, L-o-o-n-t-j-e-r, executive director of Gambling With the Good Life. I really appreciate what the-- the committee is trying to do. I think this is-- it's very difficult. But I would like to address the part about the members of the commission. We would like to suggest that the membership on the-- the gambling commission, that they would have no financial interest in either horseracing or any part of-- of gaming, so that they could be more-- less-- or less prejudiced to the-- to the industry, not biased to the industry. And I-- I want to emphasize that whatever recommendation your committee gives to that Gaming Commission, that you realize that what we need to protect is the horse-racing industry, because once the casinos get their license, they're not going to do this out of the goodness of their heart. It's going to be just what's happened in other states. They-- it'll be a liability to their bottom line and they'll be looking for any way they can to eliminate that. So

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whatever you can do to strengthen that, whether it be the number of days, the number of races, the-- the cost of the-- the licenses, I-- I would just urge you to keep that in the back of your mind, that the gambling industry and the casinos will tell you anything to get their way, but then once they've got it, you'll see things start dwindling, dwindling back to their bottom line. The dollar, it's all about the dollar. It's not about the communities or the horses or the addictions or any of that. So that's what I'd just like to share with you.

LOWE: Thank you, Ms. Loontjer. Any questions? Seeing none, thank you very much.

PAT LOONTJER: OK. We do have a number of suggestions for amendments that we'll be sharing with you, you know, on all these phases and hope that, you know, we can be there when the final bill is-- is presented and that we will be able to support you fully.

LOWE: Thank you.

TOM SAGE: Vice Chairman Lowe, members of the committee, again, pleasure to be here. Tom Sage, S-a-g-e, the executive director of the Nebraska Racing and Gaming Commission. Again, we're speaking neutral on LB877, although there's a couple items that, within LB877, I think I need to explain to the committee so they understand it. One of them-- one of them is the funding aspect that I think Senator Arch asked a lot about. Unfortunately, he's not here right now, but the first thing that I'd like to speak about would be on page 5, line 30, page 6, line 9. This has to do with fingerprinting. The majority of all individuals that obtain a racing license has-- have to be fingerprinted. There is a few exceptions on those that do not have to be fingerprinted. What we've been discovering over the last couple years is we've really had a very difficult time fingerprinting anybody over the age of 75. It just-- it's not only the-- the-- their tips are-- are missing or arthritis, you can't get them to manipulate the fingers. We've spoke with the State Patrol, where, of course, all our fingerprints go to. We kind of asked about an age frame. What came back from the Patrol is, you don't have an age frame, it says all licensees, so you have to fingerprint them no matter what. Well, we've been fingerprinting and I would say better than 80 percent of anybody over 75 come back to us as unreadable. I mean, then we have to re-fingerprint them. I mean, it-- it's just-- I don't think it's worth it, not only for our customers, for our licensees. That's where the age restrictions come from, 16 to 75. The other part of that is now it says in our state only, which is in the bill in front of you.

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The reason why that is, in the past, we used to get reciprocal fingerprints from other states. I could call Iowa, for instance, and say, could you give me Senator Groene's fingerprints? Sure, they'd send him to me, the record. You can't do that anymore. That's a federal issue. So we need people fingerprinted in our state so we know their records. That's where that comes from. As far as the funding issue, the commission is desperately in a crisis. I think Ms. Holman has picked some of that up from some of our meetings. We have roughly \$42,000 in our cash re-- reserve right now. We are a cash-funded agency; 0.64 of 1 percent comes to the commission, along with licensing fees and that racetrack licensing fees. Do you want me to finish, Senator?

LOWE: Yes, please do.

TOM SAGE: OK. So it's very concerning. We need to operate. I understand there's some concern about going right up to the 2 percent. I understand that. We, as a commission, need at least a half percent here immediately. If we want to come back in-- in a year and a half, if we write in, you know, the other 0.84 percent, that's wonderful. As we talk about expanding race days, expanding races, we are going to need the budget. We're going to need the money, the cash. That's the whole thing. We need the cash to operate. You know, Ms. McNally talked about HISA. HISA is a federal-- going-- going to be a federal mandate on states. There's a number of lawsuits. I don't know if it's ever going to go forth or not. That cost is either going to be passed onto the state or it's going to be passed onto the racetracks. So if the state gets the appropriation for it, there may not be as big a hit to the racetracks. I cannot tell you that number because the HISA board is through the Federal Trade Commission. They don't even know, and it's supposed to go in operation July 1. That's a mess, but that's another issue. We desperately need some additional revenue immediately, so anyway. Senator Groene, love, love your idea. I mean, I think that's what the commission is looking for. We're looking for some guidance, I mean, really. So anyway-- oh, any questions?

LOWE: Thank you, Director. Yes, Senator Arch.

ARCH: A question about the license itself.

TOM SAGE: Sure.

ARCH: Are-- are licenses specific to that owner at that location?

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TOM SAGE: OK, so, Senator, let me explain licensing because it's multiple faceted. So you have licensing for the racetrack operator. That's one license. So then we have a number of operational categories for people that worked at-- work at the track--

ARCH: Yeah.

TOM SAGE: --the trainers, the owners, the--

ARCH: Yeah.

TOM SAGE: It's statewide. Once they're licensed in the state, it's statewide.

ARCH: Yeah. And-- and casino license, same thing--

TOM SAGE: So--

ARCH: --an owner at a location and how-- do they connect? Does the-- does the track license connect to the casino license?

TOM SAGE: The way-- the way the statutes are written now for the gaming, you have to be a racetrack operator, you have to be in partnership with a racetrack operator. Now that's not saying the racetrack operator can't also be the casino operator, but you have to have that first racing license or racing operator's license before you can apply for the gaming operator. Now that gaming operator is a whole new license; and the same thing, there's a number of occupational licenses that go along with that.

ARCH: Is there anything that requires having that horse-- the horse track license for a period of time before you get the casino? Could both of those be issued at the same time?

TOM SAGE: There's nothing written in current language where it says one has-- or, you know, you have to have the racing license and the gaming license at the same time or a racing license first and then the gaming license. I know the commission has taken the stance you have to at least be a race-- a licensed racetrack before you can apply for the casino.

ARCH: And if the-- if-- if for some reason the racetrack were to close, would that negate the-- the license for the-- for the gaming?

TOM SAGE: Yes, I believe it would.

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ARCH: OK. Can the-- can the license be transferred? In other words, is it-- I-- I-- I'm familiar with a hospital license. A hospital license is specific to an owner at-- on that premise. So in other words, you can't take-- you can't take a track license-- you know, does it have value outside of that location?

TOM SAGE: I don't think it does, but-- but I can't tell you that for sure, Senator. That's my opinion.

ARCH: OK. All right. Thank you.

TOM SAGE: And I think there's been questions about that, but it's never been asked legally.

ARCH: Yeah, I-- I didn't know if you could move a license, if you could say--

TOM SAGE: Well, I-- I would say you could move within the same like county, if that's what you're saying, because like Columbus is going to be moving from their existing facility to a new facility.

ARCH: Do you have to approve that?

TOM SAGE: Oh, yeah, and we'll have to approve all the construction and everything else at the new facility.

ARCH: OK.

TOM SAGE: So it's not just you absolutely have the right to move. We're going to have to-- there are safety issues, all those measure-- measures, make sure all the safety of the racetrack itself are in place before we're going to grant it.

ARCH: OK. All right, thank you.

LOWE: All right. Thank you, Senator Arch. Senator Groene.

GROENE: The casino money-- you said you wore two hats. The casino fees and the racetrack fees, 2 percent or whatever, those are separate funds?

TOM SAGE: Correct.

GROENE: Now your salary will come from where?

TOM SAGE: My salary right now is split between both of them.

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GROENE: There's gonna be a lot of money coming to you guys in application fees, right, with the casinos?

TOM SAGE: Um-hum.

GROENE: Won't that take care of your-- your money?

TOM SAGE: No. No, Senator, because the casinos-- as Senator Stinner put it last year when this all came about, is horse racing needs to stand on its own, so any money coming from the licensing fees for gaming stays with gaming, racing stays with racing.

GROENE: So how many employees you got--

TOM SAGE: So--

GROENE: --who inspect the tracks and--

TOM SAGE: When-- when-- let's say we have six casinos operating, and this was just based on the initial sixth of the budget that I did last year, there'll be close to 50 employees.

GROENE: But they'll work on what side of the--

TOM SAGE: Mo-- gaming.

GROENE: Well, you'll have the new fees to pay that.

TOM SAGE: That's correct. What I'm after is we have two funds. We have an 81 fund, which is gaming, and I believe it's 74 fund which is racing. So any of the racing costs, the drug-testing costs, the stewards, the veterinarians, we pay that as the state. I know there was something said earlier that the tracks contract with labs. No, we do that, the state of Nebraska.

GROENE: So those are your employees, or you contract with someone?

TOM SAGE: The-- the-- the test barn people are my employees that would collect the urine or-- or the blood. That then gets shipped off to a laboratory that we have an RFP with.

GROENE: So they all have to be paid out the budget from the husbandry?

TOM SAGE: Of the racing--

GROENE: Yeah.

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TOM SAGE: --yes.

GROENE: All right, thank you.

TOM SAGE: Yes. Yeah, once we get the gaming fees, the gaming side's fine.

GROENE: So if we got more races, dictated more races, do some of the fees of the entrants of the races go to you guys?

TOM SAGE: No, no. We-- all we get is the licensing fees for the owners and the trainers. We don't get, like they-- in some instances, for purses for the racetrack, there might be a race that you had to pay \$50 to enter. That stays with the-- the track that-- and is used as purse supplements.

GROENE: So--

TOM SAGE: We get none of that.

GROENE: --the track, who makes the profit, the owner and operator has no cost in running, operating your department?

TOM SAGE: Say that again, Senator?

GROENE: Well, they're the ones that profit, I mean, and the-- the-- the breeders are paying it all now, basically.

TOM SAGE: Well, the owners of a horse are paying a \$30 licensing fee to the commission. That's year-round. The racetracks are paying the \$100 licensing fee per day. Then our funding mostly comes, the 0.64 of 1 percent, comes from the parimutuel handle.

GROENE: All right, so you get--

TOM SAGE: So it's the public, it's the bettors that are getting that. What we're asking here is to increase that percentage of parimutuel handle that we get to-- to get us funded.

GROENE: So if we-- if this body here said you had to have more races, you would get more parimutuel.

TOM SAGE: Yes, we could. But do we know what gaming is going to do to racing handle? I don't know. If we have multiple racetracks going at some time, a quarter horse and a thoroughbred track, you're going to have to double the personnel. The unknowns are incredible. I could tell you we have been on shoestrings. I don't know how we've been

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able to do it, but I can tell you our regulatory program isn't like I think we want it to be for racing. We're not testing enough horses.

GROENE: So--

TOM SAGE: That's why we need the additional--

GROENE: --casino gambling is going to ride on the back of the horse racing--

TOM SAGE: Um-hum.

GROENE: --because we're going to force the horse racing to pay the way for the-- for the horse track so that they--

TOM SAGE: We're-- we're going to have the horse-- the horse-- horse racing and horse race gamblers, or somebody's going to have to pay for the regulatory part of horse racing.

GROENE: Thank you.

LOWE: OK. Thank you, Senator Groene. Senator Arch.

ARCH: I want to rephrase a question that I asked earlier, and-- and I'll-- I'll put it this way. You need to get a-- you need to get a horse track license before you can be considered to get a casino license.

TOM SAGE: That is what our commissioners have said.

ARCH: OK. And then my-- the follow-up question was, if you-- if you close your horse track, will you be able to maintain your casino license?

TOM SAGE: I think there was something in Chapter 9, Senator. I don't remember. There was something about transferring licenses. Do you remember? I-- I-- I would have to look.

ARCH: We-- we can--

TOM SAGE: I would have to look.

ARCH: We can do some more research on it.

TOM SAGE: But, yeah, I-- I get what you're saying.

ARCH: OK.

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TOM SAGE: I just can't point to it off the top of my head.

ARCH: Yeah. I mean, the voters appeared to tie those two--

TOM SAGE: Yeah, yeah.

ARCH: --together in there, in the ballot, and so that's-- that's why we're having this discussion.

TOM SAGE: And on that same-- same line, Senator, I'm getting inquiries from people about they want a casino application because they want to open a casino, and then you say, hey, you have to do a racetrack first, then it's, ooh. So, yeah-- yeah, they're definitely tied together.

ARCH: Thank you.

LOWE: All right. Thank you, Senator Arch. Senator Groene.

GROENE: So timeline here, they come in and get a horse racing-- a horse track license, then that next day they come in and want a casino? Or are you going to make sure that the horse track is up and operating and feasible before you then examine the license for a casino maybe a year or two later?

TOM SAGE: That's the way I believe our-- our commissioners are thinking now.

GROENE: So it ain't gonna happen bang-bang.

TOM SAGE: I mean, I think we all want to make sure, if you're going to do a racetrack, it's safe and we're not going to have somebody get killed out there, so, yeah, we're going to make sure that racetrack is--

GROENE: Excuse my words, but they're going to have to have a track record before they get a casino.

TOM SAGE: [LAUGH] And-- and-- and, Senator, that's some of the guidance that I'm hoping that sometime we see from the body.

GROENE: From us. Thank you.

LOWE: All right. Thank you, Senator Groene.

TOM SAGE: Thank you.

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LOWE: Thank you. Are there any more in the neutral? Seeing none, Senator Briese, invite you back to close.

BRIESE: Thank you, Senator Lowe. Just briefly, just wanted to thank everybody for coming, great testimony again, and we've got a lot of work to do here and Nebraskans expect us to get this right, so full intent to do it right. Thank you.

LOWE: Thank you, Senator Briese. Any questions? Seeing none, I'll turn your committee back over to you.

BRIESE: Thank you, Vice Chairman Lowe. And with that, we'll open up the hearing on LB923.

J. CAVANAUGH: I'm next?

LOWE: LB923.

J. CAVANAUGH: I thought it was Ray. Do you want to do Ray's since he's here?

BRIESE: Sure could.

J. CAVANAUGH: I don't mind because I'm going to be here the whole time and Ray is going to be sitting there.

BRIESE: Think we're going to switch up the order. We can do that, can't we?

LOWE: Senator.

LAURIE HOLMAN: Whatever you want.

_____ : Chairman, Chairman--

BRIESE: We'll do the hearing on LB764 first. Senator Aguilar.

AGUILAR: Good afternoon, Chairman Briese, members of the committee. My name is Ray Aguilar, R-a-y A-g-u-i-l-a-r. I represent Legislative District 35, which includes Fonner Park. Today I'm introducing LB764 on behalf of Fonner Park racetrack facility. LB764 provides for a change in the definition of gross proceeds in the Nebraska County and City Lottery Fund. For some history on this act, Nebraska County and City Lottery, thereafter "the Act," allows for and regulates, among other things, the con-- conduct of keno lotteries by cities and counties for community betterment purposes. The Act defines gross proceeds to not only include wagers by keno players, but also

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includes omiss-- admission costs collected by any keno operator or satellite location. As such, any admission cost collected by a keno location must be remitted to the county as part of the keno-- keno revenues for that location. Presumably, this definition was passed to ensure that no location could profit by merely offering access to activities granted by a government license. However, some larger locations that offer keno may have areas that require an admission fee and other areas of the same facility that do not. In those situations, the Department of Revenue has determined that keno may not be offered in the admission fee areas unless those admission fees are remitted to the city or county. This causes such locations to offer keno in some portions of a facility, but not in other portions. Licensed racetrack enclosures are particularly affected by this rule. Several racetracks in Nebraska offer keno-- offer keno, but the clubhouse, turf club, and VIP areas of such facilities will not offer keno because of the admission fee rule. This costs significant revenues to local governments, as well as the racetracks, because keno may not be particularly proper-- may be particularly proper-- popular with those patrons. LB764 specifically asks to change the definition of gross proceeds so that if a facility offers keno in one area that a fee of admission charges, then the same facility may also offer keno in an admission-guarded area. The original intent of the bill is kept intact, where a location cannot profit by merely offering access to keno, but this allows the flexibility for larger facilities to offer keno throughout the entire facility if patrons may participate in the keno lottery in a free area. There are representatives from Fonner Park who will follow me to answer any specific questions about the purposes of this change. Thank you.

BRIESE: Thank you, Senator Aguilar. Any questions from the committee? Seeing none, thank you, and you'll be here to close, I presume? OK, that'll be fine. Any proponent testimony?

MARK LANDIS: Apologize for the delay.

BRIESE: No problem.

MARK LANDIS: Maybe I can find it in here.

BRIESE: You can just give it to me after.

MARK LANDIS: OK, thank you, appreciate that. Good afternoon and welcome. Thank you. Yeah, sorry for the disorganization.

BRIESE: No-- no problem.

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MARK LANDIS: I am Mark Landis, M-a-r-k L-a-n-d-i-s. I'm the financial analyst at Fonner Park. So we certainly appreciate Senator Aguilar's work on this bill and his legislative assistant, Lance Braun. Each spring, Fonner Park attracts thousands of visitors to our live races, including our busy-- our biggest days on Saturdays, where any given Saturday could attract between 5,000 and 7,000 people. At our facility, we do offer keno; and because people are already at the races to place a bet or two, keno's pretty popular at-- during a race day. However, of these 5,000 to 7,000 people, the most popular area is the clubhouse and the track. That can hold about 1,700 people, and it usually sells out. You have to pay for a table to get in there. Because of this current law, we cannot offer keno to-- to those clubhouse patrons because there's a seating charge for that. And as Senator Aguilar has mentioned, the Department of Revenue told us that seating charge is the same as an-- is the same as an admission charge, and so we would have to give all of our table charges to the county if we offered keno in the clubhouse, so, of course, we don't offer keno. We're here to hope that the-- that the-- you senators will consider changing the definition of gross proceeds so that we could offer keno to clubhouse patrons. We estimate that the current law costs Hall County, who is the operator-- the ultimate operator of the keno, about \$30,000 to \$50,000 each year in net keno proceeds. The state would get 2 percent of all keno wagers placed at the clubhouse, and of course Fonner Park gets commission as well. This problem likely affects other licensed racetracks, enclosures such as Omaha, we believe, and they probably have the same experience that we do. Any other large venue, such as large sports bars that offer keno but might have separate areas for live performances, could also benefit from the rule change. If they already offer it one place, they could do it in a second place. As we just heard, keno-- or I-- as somebody-- I think we will be hearing soon that keno will be facing stiff competition from casinos, and this small change would help keno and the associated counties at these licensed racetrack facilities. So if you have any questions, I'd be happy to answer them. Thanks.

BRIESE: OK, thank-- thank you for that. Any questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Briese. Thank you for being here, Mr. Landis. And sorry to change the pattern of your testimony, I guess, by changing the order. So basically, you're-- the change here is just that as long as there's a free section where keno is offered, you will still-- then you [INAUDIBLE] offer keno in the paid-for session.

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MARK LANDIS: Exactly, yeah.

J. CAVANAUGH: Is there any possibility that the free section will become vanishingly small or anything like that? I mean like there'd be like a phone booth where there's free keno, free--

MARK LANDIS: I-- I suppose that is possible. Certainly not at Fonner Park it wouldn't be. We have the whole-- we are the-- the keno draw for the whole county, so certainly we wouldn't do that. But, yeah, I suppose it's theoretically possible somebody would-- would do that--

J. CAVANAUGH: OK.

MARK LANDIS: --just put a little booth outside or something with--

J. CAVANAUGH: Thank you.

MARK LANDIS: But I would say the county would have to approve, or whichever government entity, the city or the county, would still have to prove that keno operator's license, so they would have some control over that as well.

J. CAVANAUGH: All right. Thanks.

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

LOWE: Thank you, Chairman Briese. And thank you for being here today. It's been a long time since I've been to Fonner Park, and I'm trying to remember. If you have a table in the clubhouse and you're in the clubhouse, can you not go into the free section, there's a doorway, you can get right into there and buy your tickets and go back to the clubhouse and--

MARK LANDIS: Yes, you would have to fight through 1,700 people to get to the free area, depend-- depending on where you're sitting. But, yes, you could go from the free area back-- go from your club table to the free area and come back. The thing about-- at least I can only speak for a licensed race-- or I'm only speaking for a licensed racetrack enclosure, so typically a horse race runs for about 20 to 25 minutes, whereas a keno game is drawn every about three to five minutes. And so basically if you'd walk down there, you'd play a keno game, it would-- it's not like you would take that ticket or you-- potentially. You wouldn't take that ticket back to your table and then, you know, a half hour later, you go back and check your results, because the keno game is always happening. So, you know, you would have to leave your table, leave all the people, go down, buy

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your ticket, probably sit there and watch the game and walk back. And it just-- I don't think practically, I'm not sure people would be willing to do that. But-- but certainly, you certainly can. That is certainly an option, and there are some people that sit close to the keno section where they-- they could do that.

LOWE: Are you allowed to put a monitor with the keno game in the clubhouse so that they can monitor that game or [INAUDIBLE] games?

MARK LANDIS: We currently don't want to run afoul of this rule, so we-- we keep that very clear, yeah.

LOWE: I-- I just-- I just didn't know if legally that was possible to do and not-- and still not be able to buy your ticket in the clubhouse area.

MARK LANDIS: Yeah, I don't know. I don't-- I would be very afraid if the Department of Revenue sent an auditor inside, a keno monitor in the clubhouse and said, you guys are playing keno here and--

LOWE: OK.

MARK LANDIS: --give us some money, so we-- we just don't want to come close that line.

LOWE: All right. OK.

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

BRANDT: Thank you, Chairman Briese. Thank you for your testimony. Doesn't-- aren't you guys basically double dipping? I mean, if-- if they're in the clubhouse and they paid the 10 bucks or whatever you charge to get into the clubhouse, why not give up part of that fee if they're going to-- if you're encouraging them to do the keno? What's-- what's-- you guys want to keep the fee and have them do the keno. I guess I don't see a problem, you know, if-- if I paid to get into the clubhouse, because that's an exclusive section and it isn't as crowded and I'm enjoying myself, why can't you guys give up part of your gate?

MARK LANDIS: Well, the-- the law as written makes us give up the-- the entire gate, so that would make the clubhouse, the entire clubhouse, open for free. And, you know, if we would have thought that would-- that the keno-- that proceeds would offset that fee, economically, we certainly would have done that decades ago, but--

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BRANDT: But the way the law is written, it gets rid of the entire gate. Why not compromise?

MARK LANDIS: I think it's-- it's possible. That would certainly just be a bottom-line question. Would-- would the casino proceeds offset the loss in gate? And then that's just a-- it's just-- I mean, the financial analyst in me says it would just be a numbers question--

BRANDT: Sure.

MARK LANDIS: --whether we would-- we'd want to do that or not.

BRANDT: You bet. All right. Thank you.

MARK LANDIS: Yep.

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

MARK LANDIS: Thank you, Senators.

BRIESE: Any other proponent testimony? Seeing none, any opponent testimony? Any neutral testimony? Seeing none, Senator Aguilar, would you like to close? Senator Aguilar waives closing. Don't have any letters [INAUDIBLE]. And that will conclude our hearing on LB764. At this point, we'll open the hearing on LB923. Good afternoon and welcome, Senator Cavanaugh.

J. CAVANAUGH: The lights are brighter on this side. Good afternoon, Chairman Briese and fellow members of the General Affairs Committee. I'm Senator John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I represent the 9th Legislative District in midtown Omaha. I'm here to introduce LB923, which would provide for digital on-premises ticket for keno games. I brought this bill as a result of the debate last session on electronic keno, which was ultimately removed from the casino gaming bill after extensive debate. I stated during that debate that I was willing to bring the legislation in the next session regarding this issue. LB923 would allow licensed casino facilities to use digital tickets only on the premises of a licensed facility to play keno games. As I'm sure the committee is aware, keno games are played on a paper ticket which the player fills out and hands to an authorized person, usually a bartender or similar staff, at a licensed facility. The numbers are displayed on a television screen for each game, which is compared to the ticket's-- the player's ticket to determine whether or not they won or lost. This bill simply allows an additional format for the ticket to be

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purchased and filled out, not on a paper but on a phone app, while physic-- physically on premises of a licensed facility. I wanted to keep this brief and just give the committee and testifiers the opportunity to speak. With what I've said, I appreciate your consideration for LB923 and I'd be happy to take any questions at this time.

BRIESE: Thank you, Senator Cavanaugh. Any questions? Seeing none, you'll remain here to close, I assume?

J. CAVANAUGH: I will.

BRIESE: You bet.

J. CAVANAUGH: Thank you.

BRIESE: Thank you. Proponent testimony. Good afternoon and welcome.

BILL HARVEY: Good afternoon. Thank you, Senator Briese. My name is Bill Harvey, B-i-l-l H-a-r-v-e-y, and I'm general counsel for Big Red Keno. I'm here today in support of LB923, and I'd like to say thank you to the committee for this time to testify on this and thank you in particular to Senator Cavanaugh for his support of this issue and for bringing this-- bringing this bill this year. Keno has been in Nebraska for more than 30 years under the Nebraska County and City Lottery Act, and it's really become an important source of community betterment revenue for counties, cities, and villages across the state. And as Senator Cavanaugh said, LB923, for digital, on-premises keno, would just let communities allow folks to play keno using their mobile phone instead of paper and a crayon. The player must be present at a licensed keno location, just as they are today. Payment would be made by debit card, bank account, or prepaid cash funded by a debit card, bank account, or cash. Credit cards are not allowed. It's that simple. Everything else about the game remains the same, including the requirement for five minutes between games. I-- I heard they were running games at Fonner Park between three and five minutes, so I think we better send a Department of Revenue investigator out there and check those guys, but-- but that will not change. Credit cards will not be accepted for payment. Each city would decide with their operator-- and this is very important local control. Each city would decide with their operator whether to adopt this change. Regulation would remain with the Nebraska Department of Revenue, just as it is today and has been for 30 years. Any other business in the state would have adopted this simple update years ago. Banks, coffee shops, grocery stores, airlines, they've all got

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mobile apps. We don't have one-- we-- we actually have a mobile app for Keno, and you can monitor your results on it. We have about 6,000 users already doing that, and we'd just like to let them be able to write their ticket on there in addition to that, very simple change. Horse racing today, you can already place your bet on a mobile phone. This already exists for horse racing today. You can go to any of the state's horse tracks and place a bet on your phone. So LB923 basically just restores parity between us and the tracks on the issue. At a time when this committee is debating whether the state should allow five or eight or ten casinos, LB923 is just keeping keno in its current footprint, but it allows a modern transaction method. So thank you for this opportunity for your time, and I'm happy to answer any questions.

BRIESE: Thank you for your testimony. Any questions? Senator Arch.

ARCH: Help-- help me understand. Educate here. So how can you-- what-- is it cash only now? How-- how does it work in placing a Keno bet?

BILL HARVEY: That's right. If you place a keno bet today, you take your-- you know, you take your bet slip, piece of paper, you mark your bet, you hand it to the keno writer, they say that's \$5, you hand them \$5 cash, and you go sit back down and-- and watch your ticket.

ARCH: And you've got an ATM, I'm assuming, in the-- in the room?

BILL HARVEY: Most locations have an ATM. Actually, most of our locations are not at locations that-- that we own. Most of our locations, and really this is statewide, are at the locations of independent people who own a-- own a bar or restaurant--

ARCH: OK.

BILL HARVEY: --that has keno somewhere.

ARCH: Somewhere there's cash available if I--

BILL HARVEY: But most-- most-- most businesses like that have a-- have an ATM on site. Most restaurants and bars have an ATM on site, yes.

ARCH: Thank you.

BILL HARVEY: Thank you.

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BRIESE: Thank you, Senator Arch. Anything else? Senator Brandt.

BRANDT: Thank you, Chairman Briese. Thank you, Mr. Harvey, for appearing today. Man, this is an industry that hasn't kept up with the times. I mean, we're still using crayons and cards and cash and--

BILL HARVEY: You got it. I want to.

BRANDT: --it's sort of my kind of place, but [LAUGH] how many states still do it this way?

BILL HARVEY: You know, it's an interesting question. There really-- first of all, there are no states except Nebraska that do keno like we do in Nebraska under the County/City Lottery Act. In most states, keno would be part of the state lottery, so it's just-- it's a very different game. It's a much simpler game. And they would allow, I-- I presume, whatever method they would allow there for buying state lottery tickets, totally separate set of regulations, and that would be state by state. But there's really no other state in the Union that does keno like we do here in Nebraska.

BRANDT: OK, thank you.

BILL HARVEY: Thank you.

BRIESE: Thank you, Senator Brandt. Anyone else? Do you have an estimate or a prediction-- surely the industry does-- for what this does to participation in the game, what this could do for participation with it?

BILL HARVEY: Yeah. You know, it's-- it's an interesting question, Senator, and I wish I had a good answer for you. Of course, predicting the future is always a dangerous business, right?

BRIESE: Sure.

BILL HARVEY: There's so many factors weighing on Keno right now that it would be really hard to predict. If you look at the Keno-- at the numbers, Keno has actually had a pretty good run over the last couple of years during the pandemic. I think it's because other forms of entertainment weren't available; you know, live sports, concerts and things weren't available. So Keno has-- has had pretty healthy revenues last couple years.

BRIESE: But you don't have an estimate for what--

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BILL HARVEY: Well, I'm trying--

BRIESE: --what expansion [INAUDIBLE]--

BILL HARVEY: We don't have a specific est--

BRIESE: OK, fair enough.

BILL HARVEY: We don't have a specific estimate. I was just going to say, you know, there's pressures coming in from the incoming casinos and other gaming. Would this help some? Yeah, I hope it would. But since, you know, we're really wanting to limit it to on-premise gaming, I-- I wouldn't think it would have, you know, that enormous of a-- of a change.

BRIESE: OK, thank you.

BILL HARVEY: Thank you.

BRIESE: Senator Lowe.

LOWE: Thank you, Chairman Briese, and thank you, Mr. Harvey. What are the security members-- what-- what's the security in case a minor wants to grab dad's ID or something like that, or dad's phone, and-- and have lunch at a place and place bets?

BILL HARVEY: Sure. You know, it's an issue that exists today in today's environment. I mean, what-- what we do in our communities is-- is Keno is limited, and I think this is true in most communities across the state. It's really a community by community decision, which is important. But in the communities we operate in, they require you to have an on-premise liquor license. And one of the things that does is it heightens your-- your staff with regard to age compliance, so they're already keyed in to watch for minors, you know, drinking alcohol, so it helps them to-- to understand the issue of minors playing keno. It's why, you know, we think it's important to have that marriage between those two things. With the-- with the mobile app, you know, in order to-- in order to get that, that would be subject to regulations of the Department of Revenue. But my guess is what they'd do is require that before you could get an account, get a phone account, you'd have to provide some kind of ID, you know, digitally scan your driver's license or something, and then the-- and then the system would read that in order to be able to have that account.

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LOWE: OK. Not all parents are reputable and-- and you've got a dad who takes his son into XYZ bar for lunch and he goes and has a couple of beers and he says, here, son, entertain yourself with whatever, and maybe even keno, you know, I'll-- I'll give you five bucks, and that kid plays the game. Is there any security against something like that where when the-- when-- when the father returns, he says, how'd you do that?

BILL HARVEY: Yeah. You know, I guess what I would say is I can't solve all those parenting issues, obviously, and I know what you're talking about--

LOWE: [INAUDIBLE]

BILL HARVEY: --because I am a parent. But I-- I guess what I would say is, you know, it's that-- that whatever funds are generated by that type of improper [SIC] activity are going to-- are going to be taken from and go back to that parent's account, so it's not something where the minor, even if he gets ahold of the phone, you know, could really benefit from that kind of-- of activity. I'd probably be more worried about the minor getting ahold of my phone and going on eBay. You know, I mean, seriously, it's-- it's probably-- keno is a pretty slow game, so I think they're probably going to be playing Candy Crush or something like that before, you know, they're going to be playing keno. That would be my guess.

LOWE: All right. Thank you.

BILL HARVEY: Thank you.

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

BILL HARVEY: Thank you, Senator.

BRIESE: Next proponent. Good afternoon and welcome.

MICHAEL NEVRIVY: Good afternoon. Senators, my name is Michael Nevriy; that's spelled M-i-c-h-a-e-l N-e-v-r-i-v-y. I'm here to testify in support of LB923. I live in Hastings. I operate keno games for cities and villages across Nebraska, including Hastings, Kearney, North Platte, McCook, Crete, St. Paul, Odessa, Lawrence, Albion and-- and several other communities. Keno has provided community betterment revenue to counties, cities, and villages across Nebraska for more than-- for more than 30 years now. Keno has become an important source of revenue for projects that would otherwise have to be paid

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for with tax dollars, especially as state dollars to counties, cities and towns have decreased, things like police cars, fire department equipment, computers for public libraries, and community playground equipment. It is regulated by the Department of Revenue, overseen by the local community, and run by the local-- by local Nebraska companies. The community controls where and how the game is conducted. The proceeds from keno go to the community to be spent as that community determines. Local option-- local control and local revenue are the reasons keno has been so successful throughout our state in generating community betterment revenue for so many years. Many of the communities we work for have told us that they are very concerned, of course, that the casinos will-- the-- the effect the casinos will have on-- on their revenue and the revenues for their communities. I, along with the vast majority of Nebraskans, support, you know, the casinos across-- across the state with the promise that they will bring much-needed property tax relief across the state, but with the loss of keno revenue-- that with the loss of keno revenue is significant, especially for the communities that will not have a casino. The digital on-premise keno ticket simply gives us a fair chance to compete on a level playing field. As we sit here today, as-- as Bill said, anyone with an account at a Nebraska horse track can get on their phone and bet on races anywhere in the state of Nebraska. We just want to let our keno customers do the same thing with one important difference in that this bill would require that the player must be physically present at a licensed location to play. In other words, keno will continue to operate only where-- in the locations where it is allowed today. We are asking for this as kind of a modern-- modernization that has touched every other industry. Instead of making their ticket with a crayon and paper, players would be able to make their ticket digitally. We believe this would help keno stay up to date with current technology and help to preserve the community betterment revenue, which has become so important to so many local communities. I thank you for your time and I'll answer any questions that anybody may have.

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

MICHAEL NEVRIVY: Thank you very much.

BRIESE: Next proponent. Good afternoon and welcome.

JACK CHELOHA: Good afternoon, Senator Briese and members of the General Affairs Committee. My name is Jack Cheloha; that's spelled J-a-c-k; last name is spelled C-h-e-l-o-h-a. I'm the registered

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lobbyist for the city of Omaha and I want to testify in favor of LB923 this afternoon and thank Senator Cavanaugh for bringing the issue before this committee. If you recall, in 2021, when there were some bills debated relative to the casinos, this issue came up last year. We supported that amendment that was offered to the bill, and we supported the amendment when it had its public hearing before this committee, you know, midway through the session. In order to be consistent, I'm here again today to support the bill today, and we hope that the committee will look at it favorably and advance it to General File this year. And-- and we truly see the bill as modernizing the keno game, if you will. The Nebraska County and City Lottery Act, as was mentioned, has been around a long time. Omaha has been a participant in it since its inception of the game roughly 30 years ago. With that, we do budget roughly now about \$9 million a year in terms of revenue for the City of Omaha. And as you know, that money can only be spent for community betterment. And with that, some of the various items that we fund with it are support of our Omaha Henry Doorly Zoo; we also support the lease-purchase agreement on the TD America [SIC] stadium, where the College World Series is held. We've purchased police cruisers with keno money. We also fund a nonprofit, the Nebraska Humane Society, with keno money. With that, they're responsible for dealing with animals within our community, which otherwise would fall on the city taxpayers. We've also funded Cleanup Omaha, where they have drives to bring in everything from old tires to expired prescription drugs, etcetera. So we've used it in a number of ways. I think it shows that keno has been a worthwhile game. It's time to-- time to keep up with the times, if you will, Senators, and-- and allow people to play it electronically on their smart devices. And for those reasons, we support the bill. Thank you.

BRIESE: OK. Thank you for your testimony. Any questions? Quick question.

JACK CHELOHA: Yes, sir.

BRIESE: You talk about \$9 million. Any projections as to what this bill would do if all other thing-- everything else was left constant?

JACK CHELOHA: No, we don't have any projections. And in fact, Senator, we were a bit surprised that the number is as high as it is based on COVID because--

BRIESE: OK.

JACK CHELOHA: --we really anticipated a dip then in 2020.

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BRIESE: OK, thank you.

JACK CHELOHA: Um-hum. Thank you.

BRIESE: Any other proponents? Seeing none, any opponents? Good afternoon and welcome.

AL RISKOWSKI: Good afternoon, thank you. I feel a little stiff after sitting this long. I'm with the-- Al Riskowski. It's Al, A-l; Riskowski is R-i-s-k-o-w-s-k-i. I'm on the board of Gambling with the Good Life. We oppose the bill from the perspective that, not necessarily bringing it into the 20th century, but as far as the debit card and direct link, being able to pay for keno that way. And what we're concerned about is, in a situation where you have a bar, many of the keno games are played in a restaurant where you have a situation where you're probably sitting there for an hour or so and then you leave. We're not so concerned in that setting. But in a bar, you go for the evening. And as you Google any research whatsoever, after one or two or more drinks, your judgment becomes impaired and there is more of a concern that you're going to be draining your checking account by being able to quickly use your debit card, or especially a direct link where you're-- you can set up so that it automatically comes out of not only your checking, but people can link it even to their savings. So if there's not enough in the checking, it starts to go to savings. And our concern is in that atmosphere of a bar, where you're there for an extended period of time and you can easily lose track of how many games then you're playing on your debit card or perhaps a direct link and begin draining your checking account and not even being aware of how many games you're playing. So we would be appreciative of some sort of protection, if that could be amended into the bill to protect someone from that taking place in that type of an atmosphere. So thank you for your time.

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

AL RISKOWSKI: All right. Thank you.

BRIESE: Any other opponent testimony? Seeing none, any neutral testifiers? Seeing none, Senator Cavanaugh, if you'd like to close.

J. CAVANAUGH: Thank you. All right. Thank you, Chairman Briese and members of the General Affairs Committee. It's been a long day, so I'll keep it brief. I just thank everybody for coming to testify

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today. As you heard, a similar app is already being used in horse racing. Other states-- we're the only state that does this the way we do it, that I do think Senator Lowe's concerns-- I asked if there were any-- ever any reported situations kind of that you contemplated with the horse-racing app, and it doesn't sound like there has been any. But I would just say that in terms of like how it's set up now with the crayons and the current situation, I don't think there's anything that would stop a parent from sitting there and having the kid fill out the card and then go-- the parent going and paying it themselves anyway at the counter. So in terms of like that situation, it's just in a different format. I would agree that it's a very boring game and my kids would rather play Candy Crush. But this is a situation that's hard to estimate, as Senator Briese has asked everybody, how much of a difference it will make economically to these-- these businesses. But they are, as we had a parade of hearings today of folks looking at all the money that we're going to-- they're going to be making off of expanded casino gambling and expanded horse racing, and keno has been around for 30 years, putting money in-- \$9 million a year into Omaha for community betterment, that is going to have some diminution in that, that industry, and this is what they're looking for to help them weather that storm, and so that's why I'm bringing this bill again after our discussion last year and continue to pursue this. So if you have any questions, I'd be happy to take them.

BRIESE: Thank you. Any questions? Senator Brandt.

BRANDT: Thank you, Chairman Briese. Senator Cavanaugh, I don't know if you're aware or not. Are there any loss limits on keno? Can a person walk into a bar and spend \$1,000, \$2,000? Does the state say you can only lose a maximum of \$200?

J. CAVANAUGH: I don't know the answer to that, but it is a cash game at this point. So I would-- I would think that'd be hard to enforce, but I don't know. I can look and see.

BRANDT: Would an enforcement action be easier to quantify under an online gaming system?

J. CAVANAUGH: It would be easier with the digital financial records, I think.

BRANDT: Because I know the last time I was in Missouri, and this has been a number of years ago, we had a class reunion and they went to the casino and you're limited in Missouri to a \$250 loss and you--

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you have a card and you plug it in and-- and that's how that state works in that casino. And I didn't know if-- if there were systems out there that enabled that in Nebraska.

J. CAVANAUGH: Not that I'm aware of, but certainly be something I think be willing to entertain as well.

BRANDT: OK, thank you.

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

J. CAVANAUGH: Thank you.

BRIESE: --your presentation. No other-- nothing else on that bill and that will conclude the hearing on LB923. That should conclude our hearings for today.