

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

General Affairs Committee  
May 29, 2007

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The Committee on General Affairs met at 1:15 p.m. on Tuesday, May 29, 2007, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing regarding a gubernatorial appointment. Senators present: Vickie McDonald, Chairperson; Russ Karpisek, Vice Chairperson; Merton "Cap" Dierks; Annette Dubas; Philip Erdman; Mike Friend; Ray Janssen; Don Preister. Senators absent: None.

SENATOR MCDONALD: Well, I think we're going to get started with the hearing today. We have a gubernatorial appointment today for the Nebraska Racing Commission and at our committee today we have Senator Dubas, Senator Janssen, Senator Karpisek just joining us, Senator Dierks, Senator McDonald, and I'm the chairman. We have Laurie Lage, the legal counsel, Senator Erdman, Senator Friend, and Nicole Trexel, our recording secretary. Dennis Lee with the appointment for the Nebraska Racing Commission. [CONFIRMATION HEARING]

DENNIS P. LEE: Thank you, Senator, members of the committee. I come before you today having been reappointed by Governor Heineman to another term on the state Racing Commission. This is the first time that any racing commissioner has come before any committee for legislative approval. I think that statute was adopted and enacted last session and so I'm blazing new ground and never had this experience, so I'd be happy to answer any questions you may have. I believe you should have a copy of my resume. I currently serve as the Chairman of the state Racing Commission and have been in that capacity for some time. It's a situation that I enjoy the public service with the Racing Commission. I've seen the racing industry change a lot over the years. I worked my way through high school, college, and law school in a variety of employment capacities, at Ak-Sar-Ben on the maintenance crew and ushering and things like that. So I remember the heyday of Ak-Sar-Ben back in the seventies and the eighties when I was working there and I miss that, and I'm well-aware of the fact that those days are probably gone forever, but while I say that we have a very strong-willed industry. It's a pleasure for me to work with the different elements of the Nebraska racing industry from the horsemen, the breeders, the jockeys, all the license personnel, and folks in our test barn or veterinarians. And it is, in a great respect...we have five race tracks, and in a great respect, we have five different little communities in the state during the different parts of the live racing season. And we've been able to continue to thrive--not thrive, that's probably not an accurate word--we've continued to develop our market base, as it were, within the industry in Nebraska despite the competition that we've had from the surrounding states. And it's, as I mentioned to the Governor in my letter to him, it's a privilege for me to serve. You're well-aware of the fact that racing commissioners are not compensated. We get our mileage when...Omaha is my home base, so when I drive to Grand Island we get mileage, and that's really about it, but it's not a situation where a commissioner serves for the compensation value. It's truly a privilege for me to be able

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to serve with the people that work day in and day out in this industry. And frankly, it's an opportunity to me to give something back to an industry that gave me the opportunity to further my education with the positions and jobs part-time and full-time that I had at Ak-Sar-Ben. So I'd be, having never been down this road, I would be happy to answer any questions you may have. [CONFIRMATION HEARING]

SENATOR MCDONALD: Senator Janssen. [CONFIRMATION HEARING]

SENATOR JANSSEN: Thank you for being here, Mr. Lee. Yeah, we've heard over the last few years that the Racing Commission is in dire financial position in the state. Can you tell us about that? What you're trying to do to enhance that? Bring racing back on its feet a little more than what we hear in the newspapers and so on? But I have confidence in you, but tell us what you have in mind about bringing it back to the state. [CONFIRMATION HEARING]

DENNIS P. LEE: Well, what we try to do...first of all, addressing your question on the economics of the Racing Commission budget, I was reflecting back. Many years ago, the primary source of the Racing Commission budget was an admissions tax and license fees and fines levied by the stewards and the Commission. And then that kind of changed as the popularity and attendance of the races tended to drop after the competition in surrounding states. So now the Commission is primarily funded from a percentage of the handle. We also obtain our licensing fees. Way back when we used to take the...we would have a reserve and frankly I can't remember if that was a \$50,000 reserve back in the late eighties, early nineties, and the balance of our budget would be divided 93 ways with a check going to each of the county fairs for their purposes. And since that time, our budget has morphed into what it is now, and essentially the short version is our budget comes from a percentage of the pari-mutuel tax, our licensing fees, and the stewards. As the attendance and handle...at some points, they stabilize. Frankly, at other points if you were to look at a chart over the last couple years you would see a fairly steadily declining graph of attendance and handle. And as that has dropped, so has our available funds that's available to us in our budget. What we've tried to do with at the Racing Commission level, we have reduced in half the number of our investigators that we had. We went from two full-time investigators to one full-time investigator. And having worked in that capacity many years ago, I know that that's not enough. We do try and contract at some of our locations--Columbus being one of them--to have some off-duty police officers come in and assist our investigator on stable area and track security and investigative issues. We try to reduce the amount of our test barn expenses in terms of some of the testing expenses and renegotiate some of those with our lab that we have that we use to do our post-race testing. And frankly, we've cut the budget as much as we can and we look at that very frequently. To answer the second part of your question, Senator, what is the Commission doing to try and get that on the more steady upswing in terms of attendance and handle? We work very closely with the tracks and the HBPA and we try and maintain a schedule of live racing,

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because that's really what the people want. Not only the people, but the people that make the show go--the horsemen, the trainers, and the jockeys and the breeders. They want to be able to have a place for live racing. And so we try our best to beef up our live racing program with regards to the number of days we are racing. I know Horsemen's Park in Omaha, when it just opened they ran weekend. Now they're running four days instead of two days for the weekend. Fonner Park in Grand Island has always taken practically and actually the worst weather days of the year historically, and has turned those into a very solid racing program. It's difficult for us to be able to try and do something other than what we've done practically. We work closely with the tracks, the HBPA, the breeders organizations, and try and develop a program that is going to maintain and improve what we offer in live racing, so that we can have a steady core group of people that come out. There are race fans in Nebraska and there's people that come to each of our tracks everyday, probably 363 days a year with regards to watching simulcasting, but nothing replaces live racing and that's really what the people are interested in and what they want. So our problem, in terms of adding live racing days from a track standpoint, is that it's a capital issue in terms of being able to offer the types of purses that they should be able to offer to the horsemen for their horses to run. It's also a capitalized issue with regards to having staff there to work the tote machines and the videotape and the photo finish and everything else. So it's an ongoing process and nothing is ever set in stone, and we're not afraid in a minute to work outside the box. [CONFIRMATION HEARING]

SENATOR JANSSEN: Can I go ahead? [CONFIRMATION HEARING]

SENATOR MCDONALD: Senator Janssen. [CONFIRMATION HEARING]

SENATOR JANSSEN: As I recall, you testified in support of LB563, the historic horse racing bill. [CONFIRMATION HEARING]

DENNIS P. LEE: I did, sir. [CONFIRMATION HEARING]

SENATOR JANSSEN: What was the Commission's interest in the bill and did you think it was necessary to save racing in Nebraska? [CONFIRMATION HEARING]

DENNIS P. LEE: I don't think I'd go so far, Senator, as to say it was necessary to save racing. The Commission looked at that element for probably the last three years. Most notably, and as I testified I think it was in January, Arkansas. Arkansas and Oregon are the two primary states that are doing it. Really the whole system developed within Arkansas. And Arkansas is a very similar environment in horse racing to what we have in Nebraska in that they really don't have any instate other forms of gambling. They have a lottery. They have some keno outlets. They have the powerball and they have horse racing. So it's almost a mirror image of what we have to offer our people in Nebraska. And at Arkansas it really was the proverbial shot in the arm. Did it save

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racing? No, but it really was a proverbial shot in the arm to not only their attendance, but more particularly their handle and that was something that, again, as I mentioned earlier, looking outside of the box it was something that we felt was worth a try here in Nebraska. And if that's something that in the future we can explore then certainly with this body's consent, permission and direction we'd be happy to do that, but until that time we look at other alternatives that we could bring to the fans in Nebraska, and as an attempt to bolster not only attendance, but also more importantly, at least from our economic standpoint, our handle. [CONFIRMATION HEARING]

SENATOR JANSSEN: Thank you. [CONFIRMATION HEARING]

SENATOR MCDONALD: Senator Dierks. [CONFIRMATION HEARING]

SENATOR DIERKS: Yes, Dennis, I wondered if you could give us just a little run down on the progress that the tracks are making compared from last year to this year starting with your first races in... [CONFIRMATION HEARING]

DENNIS P. LEE: Fonner Park? [CONFIRMATION HEARING]

SENATOR DIERKS: ...Fonner Park in Grand Island. Could you give us a rundown on number of days, the handle, and then what it looks like for the future? [CONFIRMATION HEARING]

DENNIS P. LEE: I haven't seen the final figures yet from Fonner, because they just ended, but I do know from looking at their weekly reports they're--and I'm going to estimate these figures--I believe attendance was down about 3 percent, handle was down about 5 percent. Remember they got hit with some snow a couple weeks into their meet, which obviously had an adverse effect. If you--and of course this is all speculation--if you take those days that they lost to weather out of the equation, obviously I think those figures would be better, because we lost total no attendance, no handle on those days. We're now racing here in Lincoln. [CONFIRMATION HEARING]

SENATOR DIERKS: How many days will you race here? [CONFIRMATION HEARING]

DENNIS P. LEE: Lincoln is...I'd have to check. I believe it's 42, 42 days of racing. [CONFIRMATION HEARING]

SENATOR DIERKS: Does that comport with last year? [CONFIRMATION HEARING]

DENNIS P. LEE: Oh yeah. Actually Senator, what I find very positive about the approach of our tracks and the management of our tracks is that we have to run a specific number of days of racing each year. We have to have 103 days of live racing each year. And the reason that 103 is magical is that if we don't have 103 days of live

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racing then the following year the tracks will not be able to simulcast. Simulcasting obviously has become a very important element of the financial commodity of the racetracks when they're not in their live racing season. And each year when we set the dates for the following year's racing season in either November or December, the tracks get together and they have a meeting ahead of time and they divide the calendar up pretty much based upon what their schedule is for the previous year. And this year, for example, we're not racing 103. We're racing 108. And that's what's... [CONFIRMATION HEARING]

SENATOR DIERKS: Does that include then like quarter horse racing and... [CONFIRMATION HEARING]

DENNIS P. LEE: Oh, we haven't had quarter horse racing with the exception of the meet at Hastings. [CONFIRMATION HEARING]

SENATOR DIERKS: Yeah. [CONFIRMATION HEARING]

DENNIS P. LEE: So no, the quarter horse days are not included in that figure, because there's no simulcasting at the quarter horse tracks. [CONFIRMATION HEARING]

SENATOR DIERKS: Yeah. [CONFIRMATION HEARING]

DENNIS P. LEE: And of course the only track that that minimum number of days of a percentage of what they ran in 1988 that doesn't apply is Horsemen's, because they were not in existence in 1988. So we're at Lincoln now. We had a frustrating situation this weekend in that with the weather on Friday the jockeys came out and ran the first race and the collectively felt that the track condition wasn't safe, and so they didn't ride any further. And then of course it's unfortunate that the balance of the live racing card then was cancelled on Saturday. Sunday the races were cancelled, I believe, after the third race. For me to say it's not frustrating to me is not being honest. I know just from my past experience what it takes to put on a race meet and the staff you have to be there. And I know that right now the folks at Lincoln work extremely hard at marketing their product and getting the word out. And there's, like in anything, you have your loyalists who will be there rain or shine, but there's the folks that are thinking what are we going to do this weekend? And maybe let's go to State Fair Park. And they had a real good crowd on Sunday and then they have to hear the announcement that because of the unsafe track condition we're not going to offer live races, but if you'd like to stick around and have something to eat we're going to have simulcast racing. Well, everything being honest, I don't think many of those people came out to watch simulcast. They wanted to watch live horse racing. And so it's when those curve balls are thrown to us it's sometimes difficult to swallow, but you do the best you can and you hope that the weather doesn't have that type of a negative impact. And you know, the jockeys obviously they're paid a percentage of what they win and if they don't finish in

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the top 5 or they get a check out of the purse distribution then they're paid for that ride. So it's conducive for them to ride as well and nobody wants to jeopardize the life or health of a horse or a jockey, but at the same time, when we lose days like that it's...when you have people that have already come out, it's difference, Senator, then the situation at Grand Island where they got belted with a snow storm and nobody was going anywhere to begin with. But when you have people who take the time to come out and park. They come in, they buy a program. They get a racing form. They get something to eat and drink. They're looking at their first race program and who they're going to wager in the daily double and then the races are cancelled. [CONFIRMATION HEARING]

SENATOR DIERKS: Yeah. Thank you. [CONFIRMATION HEARING]

DENNIS P. LEE: Yes, sir. [CONFIRMATION HEARING]

SENATOR MCDONALD: Any other...Senator Friend? [CONFIRMATION HEARING]

SENATOR FRIEND: Dennis, real quick, was Dr. Haberman at Creighton when you were there? [CONFIRMATION HEARING]

DENNIS P. LEE: Yes, he was. [CONFIRMATION HEARING]

SENATOR FRIEND: Well, looking at your resume, you were one of his success stories and I was one of his failures. So I just want to let you know we were in rare company and I don't think that's good for him. (Laughter) I'll call him and let him know. [CONFIRMATION HEARING]

DENNIS P. LEE: He was a... [CONFIRMATION HEARING]

SENATOR FRIEND: Well, thanks for your willingness to serve. [CONFIRMATION HEARING]

DENNIS P. LEE: Thank you, Senator. [CONFIRMATION HEARING]

SENATOR MCDONALD: Any other further questions for Dennis Lee? If not, that will close the hearing for the day. Thank you, Mr. Lee. [CONFIRMATION HEARING]

DENNIS P. LEE: Thank you very much for allowing me the opportunity to appear. [CONFIRMATION HEARING]

SENATOR FRIEND: Thanks, Dennis. [CONFIRMATION HEARING]

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Chairperson

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Committee Clerk