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General Affairs Committee  
February 04, 2008

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[LB728 LB996 LB1058 CONFIRMATION]

The Committee on General Affairs met at 1:30 p.m. on Monday, February 4, 2008, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB996, LB728, LB1058, and gubernatorial appointments. Senators present: Vickie McDonald, Chairperson; Russ Karpisek, Vice Chairperson; Merton "Cap" Dierks; Annette Dubas; Philip Erdman; Mike Friend; Ray Janssen; and Don Preister. Senators absent: None. []

SENATOR McDONALD: I think we'll get started here if everybody would take a seat. Welcome to the General Affairs Committee. I'm Senator Vickie McDonald from St. Paul. My committee members that are present: Senator Friend from Omaha, represents District 10; Senator Erdman from Bayard represents District 47, he just stepped out for a moment, I'm sure he'll be back; Senator "Cap" Dierks is presenting a bill in Education, he's from Ewing, District 40 and he will be back later; our Vice Chair is Senator Russ Karpisek from Wilber, he's from District 32; next we have our committee counsel who is Laurie Lage. To my far left: Senator Don Preister from Omaha, District 5; next to him Senator Ray Janssen from Nickerson, District 15; and Senator Dubas from Fullerton, District 34 is not here but maybe will join us later; and Matt Rathje is our committee clerk. The pages helping us today is Molly Keenan from North Platte and Ashley McDonald from Rockville. After each bill is introduced, we would like to hear testimony in support of the bill, then testimony in opposition, and then in neutral. Those that are planning to testify today, please pick up a sheet at the back door, both entrances and fill those sheets out. Sign in before you testify, then give the sheet to one our pages. They will make a more accurate recording for our public record. If you have handouts, please make sure that you have at least ten copies for the page to hand out to the committee. And when you please come to testify, speak clearly into the microphone, spell your name, first and last name. Turn off your cell phones or anything that makes noises. I think we'll get started with our appointments. Our first appointment is Murray Newman for the Nebraska Arts Council. [CONFIRMATION]

SENATOR NELSON: Madam Chairwoman, members of the General Affairs Committee, my name is John Nelson, spelled N-e-l-s-o-n, and I represent District 6 in Omaha. Thank you for allowing me to speak today on behalf of Murray Newman and his appointment to the Nebraska Arts Council. Mr. Newman was unable to be here today and he sends his regrets. Murray Newman has been a leader in the Omaha business community for a number of years. Specializing in investments. He currently serves on a number of boards including: the Board of Trustees of Bellevue University, the Jewish Federation Foundation, the Nebraska Independent College Foundation, the Livingston Foundation, and the Murray H. and Sharon C. Newman Foundation. He's a graduate of Omaha Central High School. Mr. Newman received his Bachelor of Science in economics from the Wharton School at the University of Pennsylvania and his MBA from Creighton University. He currently serves on the Nebraska Arts Council and he has

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

General Affairs Committee  
February 04, 2008

---

been reappointed by the Governor and is seeking your confirmation to continue his work. So I urge you to confirm Governor Heineman's appointment of Murray Newman to the Nebraska Arts Council. Thank you. [CONFIRMATION]

SENATOR McDONALD: Thank you, Senator Nelson. Any questions for Senator Nelson? Senator Preister. [CONFIRMATION]

SENATOR PREISTER: Senator Nelson, thank you for giving us that information. I don't know if you said, if you did I missed it, why he isn't appearing today. [CONFIRMATION]

SENATOR NELSON: He is traveling right now and I don't know where, but I do know that he travels quite a bit, so he could not be here in Lincoln today. [CONFIRMATION]

SENATOR PREISTER: Okay. But he is interested, and the reason I ask that is because we've had appointments on committees, boards, commissions, and I know of at least two cases where they didn't appear and they didn't even want to serve and somebody had sent in their names. So it's nice when they appear that we know they are interested and committed and want to provide the service. [CONFIRMATION]

SENATOR NELSON: Well, I have to assume that he's currently on the endowment Arts Council and if he did not want to continue serving there he probably would have let the Governor know about it. I'm just guessing with that, but he was involved in the Hinky Dinky stores. We go back far enough to remember that, and those were sold and now he handles his own investments and I think is a contributing member to all these various foundations and boards that he's on. So he has an interest in all them and I just have to believe he's certainly interested in the Arts Foundation. [CONFIRMATION]

SENATOR PREISTER: Okay, and it's a worthy one and good that he is interested and willing to serve. I just want to be sure that he did. So thank you. [CONFIRMATION]

SENATOR NELSON: Thank you, Senator. [CONFIRMATION]

SENATOR McDONALD: Senator Nelson, I see that he was first appointed in 2005. So this would be his second appointment. Can you tell me how you know him? [CONFIRMATION]

SENATOR NELSON: He's a constituent of mine. He lives south of Dodge, I think it's on south 92nd Street. And so I've traveled up and down that street a couple of times and I met him once and I've also known him on other occasions. He's interested in alumni in Central High School as well and I think a contributor there to the Central High School Foundation. [CONFIRMATION]

SENATOR McDONALD: Thank you. Any other questions? Senator Janssen would like

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

General Affairs Committee  
February 04, 2008

---

the next question. [CONFIRMATION]

SENATOR JANSSEN: Senator Nelson, anyone who has been in the grocery business has to be involved in the arts somewhere, whether it's the arts of butchering, the arts of pruning lettuce, and I'm certainly glad to see that we have someone in my profession that is very interested in the arts and I think it's a... [CONFIRMATION]

SENATOR NELSON: It's kind of interesting that he started as a bag boy at Hinky Dinky I think in 1972 or something like...way before that actually. [CONFIRMATION]

SENATOR JANSSEN: Oh, it had to be way before that. [CONFIRMATION]

SENATOR NELSON: ...way before that and then I think they were sold maybe in 1972, during the seventies. I'm not sure. [CONFIRMATION]

SENATOR JANSSEN: Yeah, it was in the seventies that they started to...  
[CONFIRMATION]

SENATOR NELSON: Yes, right. Um-hum. [CONFIRMATION]

SENATOR JANSSEN: They were a great chain of grocery stores. [CONFIRMATION]

SENATOR NELSON: Yeah, he must be...I'm guessing he must be in his early sixties right now. [CONFIRMATION]

SENATOR JANSSEN: Just a young fellow. [CONFIRMATION]

SENATOR NELSON: Yeah, young fellow. [CONFIRMATION]

SENATOR McDONALD: Any other questions for Senator Nelson? Seeing none, thank you. [CONFIRMATION]

SENATOR NELSON: Thank you. [CONFIRMATION]

SENATOR McDONALD: Is there anyone that would like to speak in support of Murray Newman? [CONFIRMATION]

SUZANNE WISE: My name is Suzanne Wise, that's S-u-z-a-n-n-e W-i-s-e. I'm the executive director of the Nebraska Arts Council and I wanted to just address Senator Preister's concern. Mr. Newman very much wants to be reappointed. He happens to chair our finance committee and he was very distressed that his travel commitment could not get him back to Omaha in time to drive to Lincoln today for his hearing. And so we felt that the next best thing would be to have his representative with the

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

General Affairs Committee  
February 04, 2008

---

Legislature come speak on his behalf. [CONFIRMATION]

SENATOR McDONALD: Thank you for that explanation. Senator Preister.  
[CONFIRMATION]

SENATOR PREISTER: Thank you. That is helpful to know. [CONFIRMATION]

SENATOR McDONALD: Any other questions? I see none, thank you.  
[CONFIRMATION]

SUZANNE WISE: Thank you. [CONFIRMATION]

SENATOR McDONALD: Any others in support? Anyone in opposition? Anyone in neutral? Seeing none, we'll move onto our next appointment. David Catalan from the Nebraska Arts Council, and we have Senator Synowiecki. Welcome. [CONFIRMATION]

SENATOR SYNOWIECKI: Thank you, Madam Chair. Good afternoon committee members. Unfortunately David Catalan as well had an emergency, very late, come up. Just today, as a matter of fact, I was informed that he would not be able to make it down here and asked that my office, being that he's a constituent, relay to the committee his regret that he could not be here. And just as the previous senator did, I'd like to just give you a little background on David and his career and so forth for your consideration.

David Catalan accepted the position of the executive director of the nonprofit Association of the Midlands on August 12, 2002. Prior to that he was project manager for Property Ventures, a real estate development company headquartered in south Omaha. David served as a cabinet member in the office of former mayor of Omaha, Hal Daub, during the last year of that administration in the capacity of director of Workforce Development. Before that, he was executive director of the Omaha Press Club, a private membership organization promoting excellence in journalism and press relations. Prior to joining the Press Club, David was an administrative staff at the Metropolitan Community College for three years. He managed the areas of marketing, public relations, finance, planning, staff development, and facilities as vice president of finance and administrative services. During his tenure there the Workforce Development Institute was established. David has a master's degree in business administration from Pepperdine University and has attended Harvard's program for management development, and he served in the military during 1960 to 1966, serving in California, Germany, and France. David's civic and community involvement is quite extensive. Currently he serves as a Governor-appointed position on the Nebraska Arts Council, a board member of the Omaha Community Foundation, the Douglas County Health Department, and the GI Forum of Nebraska. He is president elect of the Friendship Force of eastern Nebraska. The position with the nonprofit Association of the Midlands allows him to continue 25 years of working with the nonprofit sector to enhance its capacity to deliver programs and services in the most competitive and efficient manner

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

General Affairs Committee  
February 04, 2008

---

in response to community and constituent needs. David specializes in organizational development, strategic planning for nonprofit organizations. Again, very much regret that Mr. Catalan could not be here today, but hopefully some of the information I provided you will help guide the decision of the committee relative to the reappointment. [CONFIRMATION]

SENATOR McDONALD: Thank you, Senator Synowiecki. Any questions for Senator Synowiecki? Seeing none. [CONFIRMATION]

SENATOR SYNOWIECKI: Thank you. [CONFIRMATION]

SENATOR McDONALD: Thank you. Do we have anyone that would care to be in support of David Catalan? Is there anyone opposed? Anyone in a neutral position? Seeing none, we'll move on to our next appointee. We have been joined by Senator Annette Dubas from Fullerton. Our next appointment will be Richard Vierk with the Nebraska Arts Council. Would you come forward, please. Welcome. [CONFIRMATION]

RICHARD VIERK: Hi. My name is Richard, R-i-c-h-a-r-d, Vierk, V-i-e-r-k. I currently sit as the chair of the Nebraska Arts Council and I'm up for reappointment. I appear in person. I'm from Lincoln, Nebraska, although I work in Omaha for First National Bank and prior to that had a 30-year career as the tax partner for Deloitte and Touche here in Lincoln and I reside in Lincoln. So I've been involved in arts for a long time and continue to be involved, both in visual and in performing arts throughout the state. I sit on the Lied advisory board here in Lincoln and the Sheldon board and also sit on many national boards too for arts, Mid-America Arts Alliance, etcetera, in my capacity as chair of the council. I would be happy to answer any questions that aren't apparent from my information. [CONFIRMATION]

SENATOR McDONALD: Thank you, Richard. Any questions? Senator Preister. [CONFIRMATION]

SENATOR PREISTER: Mr. Vierk, thank you for appearing in person. [CONFIRMATION]

RICHARD VIERK: Well, no problem. [CONFIRMATION]

SENATOR PREISTER: I appreciate that. [CONFIRMATION]

RICHARD VIERK: I appreciate your guys being here too. [CONFIRMATION]

SENATOR PREISTER: Thank you. You served in Vietnam. [CONFIRMATION]

RICHARD VIERK: I did. [CONFIRMATION]

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

General Affairs Committee  
February 04, 2008

---

SENATOR PREISTER: Welcome home. [CONFIRMATION]

RICHARD VIERK: Well, thank you, thank you. [CONFIRMATION]

SENATOR PREISTER: We don't usually get many appointees who have served in the military, but I want to thank you for your service and appreciate the willingness that you gave to the country. So thank you very much. [CONFIRMATION]

RICHARD VIERK: All right. You know, it's interesting, as we get older they're all part of our fabric of our past, but I appreciate your recognizing that, and I appreciate your comments. [CONFIRMATION]

SENATOR PREISTER: Are there things on the Arts Council that you want to see in your next term changed, improved, done? I would assume you have some goals. What would some of the top things be? [CONFIRMATION]

RICHARD VIERK: Well, if I can take a commercial moment here, I will. [CONFIRMATION]

SENATOR PREISTER: Please do. [CONFIRMATION]

RICHARD VIERK: There's a bill that will be appearing before the senators in regards to enhancing the cultural endowment which the Legislature so generously enabled. Many years ago they put \$5 million aside which the earnings off of we matched with private money and the earnings off that support arts organizations throughout Nebraska. There's a new bill that's being introduced, LB1165--if I can look around here and get a shake of the head--which will add an additional \$15 million to that. And we have challenged ourselves and I think are going to be able to raise that kind of private money if the Legislature would match that money so that we could actually enhance arts organization. The significance of that for arts organizations is this is sustaining money that helps their budgets, and throughout Nebraska we are really focused on all communities in Nebraska, all of your communities. If we haven't already made you aware of a benefit from Nebraska Arts Council, I think it's the best use of public money you'll ever see. So I would encourage you to look at that bill and when you see it to take careful vision of it because it does so much for the arts and so much for the state of Nebraska. There's about a \$9 factor, money spent on arts that reappears ninefold over in salaries and benefits to communities through tourism and other things that happen in communities. So there's a huge economic benefit that arts bring to the state. So I encourage you to look at that. That would be my goal as we head into the next, to really take the arts in Nebraska, to assist them because we are just a pass through for them. We just work to assist them as best we can. Other things are in arts education. I would encourage us to continue to look at arts education in Nebraska. We really do need someone in the Department of Education who is specifically focused on arts education.

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

General Affairs Committee  
February 04, 2008

---

Without that, it gets left as a stepchild, so that's another objective if we could.  
[CONFIRMATION]

SENATOR PREISTER: Thank you. [CONFIRMATION]

RICHARD VIERK: Well, thanks for asking. [CONFIRMATION]

SENATOR McDONALD: Thank you, Mr. Vierk. [CONFIRMATION]

RICHARD VIERK: Yes, where would you like this... [CONFIRMATION]

SENATOR McDONALD: Any other questions? Seeing none, thank you for testifying.  
[CONFIRMATION]

RICHARD VIERK: Oh no, thank you, appreciate it. [CONFIRMATION]

SENATOR McDONALD: We're looking for anyone in support of Richard Vierk? Anyone in opposition? Anyone in a neutral capacity? Seeing none, we'll move onto our next appointee from the Nebraska Arts Council which would be Donna Hastings. Welcome to the General Affairs Committee. [CONFIRMATION]

DONNA HASTINGS: Thank you. I am Donna Hastings, D-o-n-n-a H-a-s-t-i-n-g-s, and I am a newly appointed member of the Nebraska Arts Council from Hastings, Nebraska, originally from Clay Center, Nebraska. My background is in art education. I was a teacher and I am now a trucking executive, but highly involved in the arts in Hastings through the symphony, the theater, and the Cottonwood Festival. And if you have questions, I'll be happy to answer. I have no idea what I'm doing. (Laugh).  
[CONFIRMATION]

SENATOR ERDMAN: Welcome aboard. [CONFIRMATION]

DONNA HASTINGS: Thank you. [CONFIRMATION]

SENATOR McDONALD: Thank you, Donna. Senator Janssen. [CONFIRMATION]

SENATOR JANSSEN: Ms. Hastings, what is the Cottonwood Festival?  
[CONFIRMATION]

DONNA HASTINGS: The Cottonwood Festival is a summer festival, a yearly summer festival supporting the performing and visual arts. It's held at Brickyard Park in Hastings, Nebraska. We're entering our 19th year. [CONFIRMATION]

SENATOR JANSSEN: How did it get the name of Cottonwood Festival?

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

General Affairs Committee  
February 04, 2008

---

[CONFIRMATION]

DONNA HASTINGS: I think because there's so many cottonwood trees near the park where the festival is held. It used to be the Cottonwood Prairie Festival, but I noticed the "prairie" has been dropped and now it's the Cottonwood Festival. I think it's the cottonwood trees. [CONFIRMATION]

SENATOR JANSSEN: Thank you, thank you. [CONFIRMATION]

DONNA HASTINGS: Sure. [CONFIRMATION]

SENATOR McDONALD: Thank you, Donna. Any other questions for Donna Hastings? Seeing none, thank you for testifying. [CONFIRMATION]

DONNA HASTINGS: Thank you. [CONFIRMATION]

SENATOR McDONALD: Anyone in support, Donna Hastings? Anyone in opposition? Any neutral testifiers? Seeing none, we'll move onto our last appointee for the Nebraska Arts Council and that would be Dana Smith (sic). [CONFIRMATION]

MATT RATHJE: Nana Smith. [CONFIRMATION]

SENATOR McDONALD: Thank you, Nana. [CONFIRMATION]

NANA SMITH: Hi. My name is Nana Smith. My first name is spelled N-a-n-a, my last name is S-m-i-t-h. What would you like to know? [CONFIRMATION]

SENATOR McDONALD: Well, tell us a little bit about yourself and it appears that this is a first-time appointment. [CONFIRMATION]

NANA SMITH: Yes, correct. I am a former and recovering attorney. I practiced law until 1989. I practiced for ten years in Lincoln. I live in Lincoln. I have three children. I'm a stay-at-home mom and I'm on a number of boards, almost all of which are arts related: the Shelton Board and the Museum of Nebraska Art Board, MEDICI, which is a small organization that raises money for the University of Nebraska-Lincoln Fine Arts Department, Kanako (phonetic) which is a relatively new organization in Omaha that is founding a center for the study of creativity in Omaha near Bemis in the Old Market. I'm a former board member of the Nebraska Humanities Council and the Lincoln Community Foundation and I've had a lifelong interest in the arts. I started in college as a studio art major, transferred out of that and became a lawyer. But ever since then have been both a student and a practitioner in my free time, and I regularly take studio art classes on campus on UNL. [CONFIRMATION]

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

General Affairs Committee  
February 04, 2008

---

SENATOR McDONALD: Do we see any questions for Nana Smith? Senator Erdman.  
[CONFIRMATION]

SENATOR ERDMAN: I have to ask just because it would be a lot of fun for me. I realize that the Nebraska Arts Council has a representative on the State Fair Board and I'm also aware that you may know somebody that has an interest in what we would call State Fair Park. As a member of the Arts Council, do you have an opinion on what the outcome should be on said property? [CONFIRMATION]

NANA SMITH: I have no opinion. [CONFIRMATION]

SENATOR FRIEND: Good answer. [CONFIRMATION]

NANA SMITH: My husband discovered that fact a few days ago. I don't know how but he said, honey, did you know that the Arts Council has somebody on the State Fair Board? And I called Suzanne and said I bet they're going to ask me that question.  
[CONFIRMATION]

SENATOR ERDMAN: As chair of the Ag Committee, I don't think I'd be doing my job if I didn't raise the issue, but just...okay, between--is it Nana? [CONFIRMATION]

NANA SMITH: Nana, that's correct, rhymes with Dana. [CONFIRMATION]

SENATOR ERDMAN: Nana...between Nana and Phil. What do you think we should we should do with the state fair then if you don't have an opinion as a member of the board? I'm just...you don't have to answer that. I'm just teasing you. Thank you for being here and participating in this exciting opportunity for me to ask you a question that you shouldn't have had to answer, but you did very well. Thank you. [CONFIRMATION]

NANA SMITH: Well, I'll get to go home and tell my husband that he was right, it came up. [CONFIRMATION]

SENATOR ERDMAN: And I'm sure he'll take that up with me, I'm sure he will. Thanks.  
[CONFIRMATION]

SENATOR McDONALD: Are there any other questions? Senator Preister.  
[CONFIRMATION]

SENATOR PREISTER: In that same vein, I was just wondering how your recovery is coming? [CONFIRMATION]

NANA SMITH: My recovery? [CONFIRMATION]

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

General Affairs Committee  
February 04, 2008

---

SENATOR PREISTER: Didn't you say you were a recovering attorney?  
[CONFIRMATION]

NANA SMITH: Oh, recovering as an attorney, yes. [CONFIRMATION]

SENATOR PREISTER: I just hope your withdrawal wasn't too painful.  
[CONFIRMATION]

NANA SMITH: Yes, it's been a long time, but I think I'm better. (Laugh).  
[CONFIRMATION]

SENATOR PREISTER: Okay. Thank you. [CONFIRMATION]

SENATOR McDONALD: Having been at your house, I'm curious to know who is the artist that has painted so many pictures? [CONFIRMATION]

NANA SMITH: We have a lot of art, yeah. Most of what you probably saw on the first floor is art that we own, not art that I did. Some of the art on the first floor is mine and depending on when you were there, I can't remember exactly what was out.  
[CONFIRMATION]

SENATOR McDONALD: It was Christmastime and I was in the little sun room to the left.  
[CONFIRMATION]

NANA SMITH: It was recently? [CONFIRMATION]

SENATOR McDONALD: Yeah. [CONFIRMATION]

NANA SMITH: A lot of the art in the sun room is mine. Those paintings of the women, those were mine. But most of what you see hanging on the first floor are just things that we bought over the year. Quite a bit of them are Nebraska artists, a fair number are University of Nebraska professors, present or former. But we have always enjoyed having a lot of art hanging around as you could tell if you visited our house.  
[CONFIRMATION]

SENATOR McDONALD: Yes. Thank you. Lovely, lovely art collection.  
[CONFIRMATION]

NANA SMITH: Thank you. [CONFIRMATION]

SENATOR McDONALD: And I can tell that you have a great deal of interest in arts.  
[CONFIRMATION]

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

General Affairs Committee  
February 04, 2008

---

NANA SMITH: Yeah, it's my passion. [CONFIRMATION]

SENATOR McDONALD: Thank you for coming forward. Thank you. [CONFIRMATION]

NANA SMITH: Thanks. [CONFIRMATION]

SENATOR McDONALD: Any other questions? Seeing none, thank you. Have anyone in support of Nana Smith? Anyone in opposition? Any neutral testifiers? Seeing none, we will close the appointment part of our hearing today. We will be hearing three bills: LB996, LB728, and LB1058. First one, Laurie Lage our legal counsel will be submitting it. [CONFIRMATION LB996]

LAURIE LAGE: Thank you, Senator McDonald, members of the committee. I'm Laurie Lage, L-a-g-e, committee counsel for General Affairs, here to introduce LB996. LB996 contains four revision suggestions to the charitable gaming statutes. First, Sections 1, 2, 4, 5, and 7-9 would allow for certification of independent testing laboratories that test gaming equipment. Under statute, the department is required to approve all gaming equipment marketed and used in Nebraska. The state solicits proposals and awards a contract to a testing lab which the manufacturers must use. Since the manufacturers pay for their own testing costs, it would be a benefit for them for the department to certify independent testing laboratories and then let the manufacturer choose which certified or contracted testing laboratories to use. Second, Sections 3 and 6 would provide the department discretionary authority to permit certain manufacturing ownership interests to exist under the bingo and pickle card statutes. Allowing this discretion will put Nebraska's statute in line with the way most other states handle the issue and will make the licensing process easier in some circumstances for the department. Third, Section 10 changes a reference to duly authorized representative to directed representative to avoid a conflict of the term within two related statutes. And Finally, Section 12 repeals outright Section 9-237 eliminating the requirement that bingo license application information be filed with local government. Several years ago, legislation changed many of the charitable gaming licensing laws, and since then the Legislature has continued to update the statutory language on licensing to reflect the changed policies. That's the purpose of this section. I've asked the Department of Revenue if they could send someone from Charitable Gaming to provide us with more information and to answer any questions. I believe those representatives are here. So I will end there and answer any questions you might have. [LB996]

SENATOR McDONALD: Senator Erdman. [LB996]

SENATOR ERDMAN: Thank you, Senator McDonald. Laurie, talk to me about Section 3 and Section 6 giving the discretion to the department to allow manufacturers or employees of one manufacturer to have an interest in another manufacturer, distributor, or manufacturer-distributor. Is that...obviously there's a reason why that's in statute now.

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

General Affairs Committee  
February 04, 2008

---

Is that a question best directed to the department or is that something that... [LB996]

LAURIE LAGE: I think there have been specific circumstances where it has been a problem just because of timing of licensing. I believe the department sees it as a technical sort of thing and they will explain that a little bit better. [LB996]

SENATOR ERDMAN: Okay. [LB996]

SENATOR McDONALD: Any other questions for Laurie Lage? Seeing none, I'm looking for support for LB996. Anyone wishing to testify in a supportive role, please come forward. Welcome. [LB996]

STEVE SCHATZ: (Exhibit 1) Good afternoon, Senator McDonald and members of the General Affairs Committee. My name is Steve Schatz, S-t-e-v-e S-c-h-a-t-z is the last name. I'm the policy manager of the Charitable Gaming Division of the Department of Revenue. I appreciate the opportunity to appear before you this afternoon and offer testimony on behalf of the department in regard to LB996. I do have to make a correction relative to the handout. There is a reference on the last page of the handout in the next to the last paragraph, in the last sentence, it should read Section 9-653 instead of 9-603.02. I apologize for that oversight on my part. LB996 addresses several issues relating to the regulation of charitable gaming in Nebraska. Foremost in my testimony this afternoon is providing clarifying information to those portions of the bill which authorize the Department of Revenue to certify or contract with independent testing laboratories for services related to the testing of gaming equipment. The Nebraska Bingo Act and the Nebraska County and City Lottery Act require the department to approve bingo equipment and lottery keno equipment used in Nebraska. The manufacturers of gaming equipment, including computerized keno systems and electronic bingo card monitoring devices, are required to submit their equipment to an independent testing laboratory which determines whether the equipment conforms to the standards and specifications established by the department. The manufacturers are responsible for all costs associated with the testing. There is no cost to the state of Nebraska. The certification of testing laboratories as provided for in LB996 would allow a manufacturer to choose which testing laboratory it wanted to use for Nebraska's testing requirements, provided the laboratory had been certified by the department. Certification would be based upon qualification standards adopted by the department. The manufacturer would also be able to negotiate the testing cost directly with the laboratory. However, the testing laboratory would still be required to test the equipment for compliance with the department's standards and specifications. Alternatively, the department may continue to contract with a testing laboratory to test the manufacturers equipment if determined to be the most beneficial way to meet the department's testing requirements. The additional regulatory changes in the bill are primarily of a technical cleanup nature and are noncontroversial. The first one, Section 9-255.09(6) of the Nebraska Bingo Act and Section 9-335 of the Nebraska Pickle Card Lottery Act are

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

General Affairs Committee  
February 04, 2008

---

amended to provide the department discretionary authority to permit a licensed manufacturer to have an ownership interest in another licensed manufacturer, when mutually acceptable to the department and the manufacturers involved. The existing statutory language prohibits such arrangements altogether which on occasion has been problematic for the department when dealing with the relicensing of manufacturers necessitated by corporate reorganizations or acquisitions. The proposed change would simplify the licensing process under these circumstances. The repeal of Section 9-237 of the Nebraska Bingo Act eliminates the need for an organization licensed to conduct bingo, to file a copy of all bingo license application information with the clerk of the county, city or village where the organizations bingo game is conducted. Since a local bingo permit is no longer required by virtue of the enactment of LB638 last year, we do not see any regulatory value in continuing to require the filing of the bingo license application information at the local level. Finally, the change in the reference to authorized representative in Section 9-653 of the Nebraska County and City Lottery Act resolves a conflict with Section 9-603.02 of the act. Authorized representative is a defined term as it relates to the examination, signing, and approval of lottery worker license application submissions to the department and is not an appropriate reference in Section 9-653. I would be happy to attempt to answer any questions you have. Jim Haynes, director of Lottery and Charitable Gaming and Mark Ludwig, division legal counsel are also in attendance, are available to answer any of your questions. Again, we appreciate the opportunity to appear before you this afternoon. [LB996]

SENATOR McDONALD: Thank you, Mr. Schatz. [LB996]

STEVE SCHATZ: Any questions? [LB996]

SENATOR McDONALD: Senator Erdman. [LB996]

SENATOR ERDMAN: Steve, thanks for your testimony. As I read the language, both on page 18 and page 31, regarding the ability for a manufacturer-employee to have an interest in another manufacturer-distributor or manufacturer-employee...or just manufacturer-distributor, excuse me. There are no guidelines. There's nothing there that gives me any direction as to what the rationale would be for that and I'm wondering...I mean, that's a pretty broad grant of authority that unless you say so, they shall not. You spoke in your testimony about mutually acceptable. That language isn't even in the statute. Give me some direction as to what the problems were and why...I understand the issue of reorganizations and acquisitions, but what were the examples specifically and what would be a reason that you would grant such a relationship under the statute? [LB996]

STEVE SCHATZ: Essentially what it amounts to, Senator, in recent years we have seen primarily with manufacturers of pickle cards, pull tabs, that there have been a number of either corporate reorganizations or acquisitions involving one manufacturer acquiring

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Transcriber's Office

General Affairs Committee  
February 04, 2008

---

another manufacturer. And from their standpoint, and some of the licensing situations, it would be from a tax standpoint, more advantageous for them to have their acquisition as a separate entity and not as a wholly owned subsidiary of the entity that we have licensed. What we've encountered in those circumstances is the existing language in the statute would prohibit us from licensing both the manufacturers under those circumstances because a manufacturer cannot have any interest in another manufacturer. This would give us the discretion to accommodate a situation where it wouldn't be necessary to license separately both manufacturers, or we could do so, if we thought it was in the best interest of the state to do so. [LB996]

SENATOR ERDMAN: And I want to just ask. I'm just curious if the language couldn't be more definitive or clear but we can visit with that later. [LB996]

STEVE SCHATZ: We certainly wouldn't have any objection to that. We would be happy to review any alternative language that you might have in mind that would make that more definitive than it currently is. [LB996]

SENATOR ERDMAN: Okay. Thanks, sir. [LB996]

SENATOR McDONALD: Thank you, Steve, for answering that. Any other questions? Seeing none, thank you for coming forward. [LB996]

STEVE SCHATZ: Thank you. [LB996]

SENATOR McDONALD: We are on LB996. Do we have anyone else that would to come forward in support? Anyone in a neutral position? Anyone in opposition, I'm sorry, first? And then in a neutral position? Seeing no more testifiers, we'll close the hearing on LB996, and move onto LB728 by Senator Karpisek. Welcome again. [LB996 LB728]

SENATOR KARPISEK: (Exhibit 2) Thank you, Senator McDonald, members of the committee. Although this may seem to be kind of a menial bill and it isn't overly technical...sorry. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. Last year as you recall, we had a bill to change the state song that was written by Jim Fras. Jim has passed away years ago. Mrs. Fras lived in my district at the Fairmont Manor and she was very distraught that we may be changing the state song. So I went and talked to her and as you know, we IPP'd that bill and she was very happy with that. In the interim, she passed away. Talking with her sons, they said that their father wasn't the only person that wrote Beautiful Nebraska, but also Guy G. Miller helped with the words. So they felt that Guy G. Miller should also have the credit along with their father. Now, if it would have been Mr. Miller's family coming forward and asking for his name to be placed on it, I probably would not have even messed with it. But when it was the Fras family asking for another person to be added also, I agreed and since it is in state statute we have to have statute change to

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

General Affairs Committee  
February 04, 2008

---

add Mr. Miller to the words, and that is the crux of the bill. I'd take any questions. [LB728]

SENATOR McDONALD: Thank you, Senator Karpisek. Senator Erdman. [LB728]

SENATOR ERDMAN: Thank you, Senator McDonald. Senator Karpisek, I have two questions. You're opening up the section of law that states what the state song of Nebraska currently is, and that means that we could amend it to be anything we wanted to. [LB728]

SENATOR KARPISEK: We could try to. [LB728]

SENATOR ERDMAN: We could try to. Very well stated. Okay, and the second question is, can you sing for us Beautiful Nebraska today? [LB728]

SENATOR KARPISEK: No, sir, and you wouldn't want me to. [LB728]

SENATOR DIERKS: Ask me. [LB728]

SENATOR ERDMAN: We'll make you sing for it in exec session before we advance your... [LB728]

SENATOR KARPISEK: Well, I may do it there, but you'll stop me. [LB728]

SENATOR ERDMAN: Okay. We'll protect you from your adoring public. [LB728]

SENATOR McDONALD: Thank you, Senator Erdman and thank you, Senator Karpisek for refusing on that. (Laugh) Anyone else have a question? [LB728]

SENATOR ERDMAN: I agree. Thanks for not singing. [LB728]

SENATOR KARPISEK: And I did pass out the letter from the Fras family. [LB728]

SENATOR McDONALD: Thank you. [LB728]

SENATOR KARPISEK: Thank you. [LB728]

SENATOR McDONALD: Appreciate your coming. Thank you, Senator Karpisek, for opening LB728. Do we have anyone here in support of LB728? Anyone in opposition? Anyone in a neutral capacity? Seeing none, we'll close the hearing on LB728 and move onto LB1058. [LB728 LB1058]

SENATOR KARPISEK: Welcome, Senator McDonald. [LB1058]

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

General Affairs Committee  
February 04, 2008

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SENATOR McDONALD: Thank you, Senator Karpisek. I'm Senator Vickie McDonald from District 41, and I'm here to open on LB1058. LB1058 covers two issues. The first is to extend the current distribution of lottery proceeds until July 1, 2012, and the second part of this bill would be to revise provisions of the Gamblers Assistance Program. First, Section 9-812 of the state lottery statutes would be amended to push back a sunset date to keep the current lottery payment structure in place to ensure that the dollar amount transferred to beneficiary funds will not be less than the amount transferred in fiscal year 2002-2003. In 2003, the Legislature passed LB367 in which the hold-harmless period of October 1, 2003, to January 1, 2008, was implemented. When LB367 passed, the lottery was experiencing low sales and the bill suspended the 25 percent requirement to allow flexibility that the lottery would increase price payouts. Thus generating more play and increasing revenue from ticket sales which in turn would mean more money for the beneficiaries. And the strategy has been successful. Play and prize payouts have gone up and the beneficiaries have profited. You may recall that last session, through LB638, the Legislature extended that sunset date to 2009. There is support to continue operating under the current system. By changing the sunset date to 2012, we can assure the lottery and the beneficiaries that they may rely on the status quo for an additional three years. Second, the remaining provisions of the bill proposes changes to the statutes covering the Compulsive Gamblers Assistance Fund and the State Advisory Committee on Problem Gambling and Addition Services. As you may know, the problem of gambling has been very important to me. I have spent a great deal of time in the Legislature working to make sure the Compulsive Gambling Assistance Program in Nebraska has remained funded and efficient. When the program started, which was when the lottery was created, the advisory committee was a more active participant in the administration of the program. I want to get the committee back to the way it was and I believe this bill will make that possible. As you see I have prepared an amendment that revises the language of the green bill that clarifies our intent that the committee provide leadership and direction for the program. The bulk of this legislative intent starts on page 2 with subsection 3. The committee is to be responsible for developing and recommending guidelines and standards on how the division should use the Compulsive Gamblers Assistance Fund. It also authorizes committee to evaluate and approve applications for treatment, for treatment funding, approve the use and expenditure of funds for education and prevention of problem gambling, the authority to plan and implement outreach in education programs, and the responsibility to submit an annual report of its activities. The committee members are needed to assist the division in making its service decisions. To the best of my knowledge, there is no paid staff within the Behavioral Health Division who has problem gambling experience. The members of the committee are required to show a demonstrated interest and commitment and specialized knowledge, experience or expertise relating to problem gambling and addition services. We need these changes to improve the program and to help the committee, and they are necessary to make sure that we are providing the best services to our residents who need help. I respectfully ask for your support and would

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

General Affairs Committee  
February 04, 2008

---

be happy to answer any questions you might have. [LB1058]

SENATOR KARPISEK: Thank you, Senator McDonald. Are there any questions for the Senator? Senator Dubas. [LB1058]

SENATOR DUBAS: Thank you, Senator Karpisek. Thank you, Senator McDonald for introducing this legislation. So just to help me understand this better, we already have committee in place, but they just aren't doing the things you'd like to see them do? [LB1058]

SENATOR McDONALD: The committee has been created...I think it was in 1994 during the reorganization with the Health and Human Services, the committee...the things that the committee were able to do and help with problem gambling have been taken away, and because the program is faltering, it's necessary to bring them back to the committee that was there to help with the director in making sure that we have treatment for all of our problem gamblers, in a way that it was devised at the beginning. [LB1058]

SENATOR DUBAS: What has caused the committee to not be as... [LB1058]

SENATOR McDONALD: Their abilities have been taken away. So they have not been able to be a part of the process. And right now there is no staff member that has problem gambling background and because of that there's a disconnect. [LB1058]

SENATOR DUBAS: So we're just reinstating, basically, their authority and getting them a lot more involved. Thank you. [LB1058]

SENATOR KARPISEK: Thank you, Senator Dubas. Any other questions? Senator Erdman. [LB1058]

SENATOR ERDMAN: Senator Karpisek. To follow-up on Senator Dubas' question, help me understand, the advisory committee is no longer in existence? [LB1058]

SENATOR McDONALD: They are in existence, but they do not have the authority that they had prior to the reorganization. [LB1058]

SENATOR ERDMAN: In which they solely had the discretion of where money was spent, they solely had the responsibility for implementing outreach in educational programs, they solely had the responsibility to submit the report to the Legislature regarding those funds, and they solely had the authority to do anything else that they thought they wanted to do? [LB1058]

SENATOR McDONALD: That I'm not quite sure if they solely had that, but what they had before is not in existence and what we are asking now is for the authority that I just

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

General Affairs Committee  
February 04, 2008

---

gave you. [LB1058]

SENATOR ERDMAN: Which, unless they approve the expenditure of funds, they can't be expended and unless they implement these plans, they cannot be implemented. I'm just trying to understand the...because if you're going to make the argument that we're going back to something before, then likely the language would have been somewhere prior. I'm just trying to connect the dots to make sure that I understand what's being asked of the committee. But I'm sure there will be other testimony. [LB1058]

SENATOR McDONALD: Yes, and you can... [LB1058]

SENATOR ERDMAN: I just wanted to make sure I was clear. Okay. [LB1058]

SENATOR KARPISEK: Thank you, Senator Erdman. Any other questions? Thank you, Senator McDonald. [LB1058]

SENATOR McDONALD: Thank you. [LB1058]

SENATOR KARPISEK: Any proponents for the bill? [LB1058]

SHERRIE GEIER: (Exhibit 3) Try not to knock over my accessory. Good afternoon Chairperson McDonald and members of the General Affairs Committee. My name is Sherrie, S-h-e-r-r-i-e Geier, G-e-i-e-r. I am here today as a member of the State Advisory Committee on Problem Gambling and Addiction Services to testify in support of LB1058. To help you understand why I believe the statutory changes proposed by LB1058 are needed, I will briefly describe my personal and professional background and touch on some historical milestones in the operation of the Gamblers Assistance Program or the GAP as it is commonly known, all of which serve as a basis for my opinion that this legislation of vital importance. In the past 30 years, I have volunteered for or been appointed to serve on numerous boards, committees, and commissions. I have also held administrative positions in higher education, the performing arts, and the state of Nebraska. All of which included the existence of a board of directors or an advisory committee. These experiences on both sides of the fence, so to speak, allow me to have a good understanding of the best models for interactions between paid staff and the individuals who volunteer or are appointed to serve on boards, committees, and commissions. From this point on, my testimony will blend my own experience with events in the GAP's history, and I have provided a handout, albeit very rough. I hope it will help you to follow the sequence of events that I will mention. The Nebraska Lottery was created in response to a popular vote and through the actions of the Legislature. The Nebraska citizens who voted to have a lottery in our state did so in part because they were assured that a portion of the revenue from the lottery would benefit education and the environment, and of course more recently, the State Fair. And perhaps most importantly that treatment would be available to those persons for whom problem

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

General Affairs Committee  
February 04, 2008

---

gambling is an addictive disorder. The Nebraska Advisory Commission on Compulsive Gambling and the GAP were created in 1993 with the passage by the Legislature of the State Lottery Act. The Lottery Act clearly define the roles and responsibilities of the commission and the GAP staff. In simple terms, the commission was responsible for making recommendations and decisions about services for and the treatment of individuals and families who experienced the consequences of problem gambling. The GAP staff was responsible for carrying out the recommendations and decisions of the commission. Several years ago I held an administrative position with the GAP. In 2001, I resigned from that position to join the staff of a former state senator. But I was asked to continue to serve the GAP by accepting an appointment to what was then known as the Nebraska Advisory Commission on Compulsive Gambling. And I gladly agreed to do so because in all my years of experience with organizations that included a board of directors or a commission, I had never seen one before I went to work for the GAP in which all of the interested parties performed with a genuine respect for one another and in such a collaborative manner with unwavering commitment to the cause. I was appointed to the commission and elected chairperson by my fellow commissioners. I served in that capacity until 2004 when LB1083, the Nebraska Behavioral Health Services Act, was passed. As some of you may recall, the Behavioral Health Services Act was primarily intended to reduce the populations in Nebraska's three regional centers by creating an alternative network of community-based mental health treatment services. However, the act also created the Behavioral Health Council and renamed and attached to the council three previously existing advisory groups: the State Advisory Committee on Mental Health Services, the State Advisory Committee on Substance Abuse Services, and the State Advisory Committee on Problem Gambling and Addiction Services. I was appointed to serve on the Behavioral Health Council and I was reappointed to the State Advisory Committee on Problem Gambling and Addiction Services. I was also re-elected as chairperson for the newly named advisory committee. At this point, it is very important to note that the changes made by the Behavioral Health Services Act for the GAP and the newly named Advisory Committee on Problem Gambling and Addiction Services were, unfortunately, not just semantic changes. In order to create uniformity for the three advisory committees that were attached to the new Behavioral Health Council, the original roles and responsibilities for the GAP staff and the committee were modified and/or eliminated. This attempt to create uniformity inadvertently laid the groundwork for the uncertainty and confusion about the roles and responsibilities of the GAP staff and the committee that had been increasing for the past 14 to 16 months. It is my understanding that LB1058 was introduced to eliminate the uncertainty and confusion and to restore the clarity of purpose that existed prior to 2004. In the current fiscal year, the GAP's revenue will be approximately \$1.3 million. The money comes from the state lottery, Charitable Gaming, and the Health Care Cash Fund. The funds support: treatment for problem gamblers and their families, training of certified counselors, a 24-hour crisis line, education, prevention, and public awareness activities, data collection and evaluation, and program administration. It is vitally important that it be made clear once again how decisions about the use of funds and

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

General Affairs Committee  
February 04, 2008

---

the activities that are provided to help families and individuals afflicted with problem gambling are to be made and implemented. I believe the citizens who voted to have the lottery in Nebraska expected this to be done, and even more importantly the people who use the services of the Gamblers Assistance Program deserve to know that their needs will always be met. I believe that change should always be given a chance to work, but if it doesn't, the best thing to do is to accept reality and be willing to turn the clock back. That is what I believe former Health and Human Services Committee chairman Jim Jensen did in 2006 when he led the successful effort to eliminate the Behavioral Health Council. The very counsel which he had created in good faith to do something that he believed was good, but it turned out not to work. So he was willing to go back and make the change. But the job wasn't finished with the elimination of the council. In 2008, I hope the General Affairs Committee will finish the work that needs to be done to restore true citizen oversight of the services for and treatment of problem gambling in Nebraska by advancing LB1058 for a debate by the full Legislature. I would be happy to answer any questions you have. But first I would like to conclude my testimony by thanking the General Affairs Committee for always listening to us when we needed an ear, and especially to Senator McDonald and to Senator Janssen for serving as our champions time and time again. [LB1058]

SENATOR McDONALD: Thank you, Sherrie Geier. Any questions for Sherrie? I do have a couple. Can you tell us what the most pressing problems are with the program in the committee? [LB1058]

SHERRIE GEIER: The program in the committee? The need for clarification of who is responsible for doing what and in what order. How do we collaborate? Where do our roles and responsibilities differ? It used to be clearly defined and clearly understood by all parties involved and now it is not. [LB1058]

SENATOR McDONALD: And who approves the contracts? [LB1058]

SHERRIE GEIER: The committee is expected to approve the contracts, or that's the belief at this point. [LB1058]

SENATOR McDONALD: Do they actually have any say in approving the contracts? [LB1058]

SHERRIE GEIER: The last time we were asked to approve contracts in June we were asked to do so three weeks before the existing contracts were to expire, and the only background information we were given was what you might call an executive summary with no background information. We got a one-page description of what was proposed for the next year, and it was immediately apparent from looking at it that the information on the form was not only not backed up with any kind of documentation, but it was...it inaccurately and inappropriately was allocating funds for purposes for which it was not

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

General Affairs Committee  
February 04, 2008

---

intended. Did that answer your question, Senator? [LB1058]

SENATOR McDONALD: Um-hum. Senator Karpisek. [LB1058]

SENATOR KARPISEK: Thank you, Senator McDonald. Ms. Geier, where does the majority of the funding come from for the GAP? [LB1058]

SHERRIE GEIER: It comes from three sources. We do not receive any General Fund dollars. We receive monies from the lottery in a formula, with a formula basis for doing that. We receive a fixed amount of money from charitable gaming. Through Senator McDonald's effort in 2006, we now receive a percentage of the lottery's advertising budget that we use to support prevention education and public awareness activities. And we now receive, through Senator McDonald's efforts again, some monies from the Health Care Cash Fund that we can use in any way that we see fit, but is primarily to be used for treatment first and then other things in a second or tertiary manner. [LB1058]

SENATOR KARPISEK: And I just heard in the opening that the Senator doesn't think that there's anyone associated that has background with the compulsive gambling on staff. [LB1058]

SHERRIE GEIER: It was my understanding from her statement that she didn't believe it was anyone who was a paid member of the Health and Human Services Division of Behavioral Health who has that kind of background, and that is indeed accurate. [LB1058]

SENATOR KARPISEK: Okay. Thank you, Sherrie. Thank you, Senator McDonald. [LB1058]

SENATOR McDONALD: Any other questions? If you had the power to make any changes to the Gamblers Assistance Program, what changes would you suggest to help the program run more smoothly? [LB1058]

SHERRIE GEIER: I would restore or actually enhance the authority, the responsibility. Along with authority comes responsibility for the committee that was first created in order to comply with or oversee the monies that were to come to the Gamblers Assistance Program from the lottery. And to make it clear once again as it was in the Lottery Act that the...it was then called the director of compulsive gambling. Now it's called a program manager. That is a semantic difference, but it's the staff support for the committee would be charged with the responsibility of carrying out the decisions, recommendations of the committee. [LB1058]

SENATOR McDONALD: I know in your strong support for this bill can you tell me what you think would happen if this doesn't pass? [LB1058]

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

General Affairs Committee  
February 04, 2008

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SHERRIE GEIER: Well, I don't have a crystal ball, so I can't predict with 100 percent certainty and I don't gamble. So I'm not going to lay odds on this, but we've already lost one agency provider. And it is fairly well known that that agency stopped providing service out of a growing sense of frustration with the way the program is being administered right now. And we've had providers at the last two committee meetings and I've heard, and I believe my fellow committee members have heard as well, enough input from the providers who are still providing services that they may reach the end of their level of tolerance to accept the increasing confusion and disruption in the way decisions are being made that affect their funds for treatment, their administrative responsibilities, their relationship with the program staff, and their lack of a lot of relationship that used to exist with the advisory committee. So my...the answer to your question is I believe that there is a good chance that we will lose more providers, and we really can't afford to do that. The need for treatment keeps increasing and we can't afford...we need more, not fewer providers. And frankly I believe that the greatest loss would be to lose more providers, but I also believe there are members of the advisory committee who will probably reconsider their willingness to serve and their interest in serving, if something is not done to bring clarity of role and responsibility and purpose again. We would need to restore the sense of partnership and collaboration and trust that used to exist...was the reason I agreed to stay with the program after serving as a staff member. And I was happy to do it and I looked forward to meetings and I enjoyed them thoroughly, and that's not the case any longer. Does that answer your question? [LB1058]

SENATOR McDONALD: That does answer my question. Thank you, Sherrie. Any other questions? Thank you for your service. You've been a great asset to the advisory board in all the years of service... [LB1058]

SHERRIE GEIER: Thank you. [LB1058]

SENATOR McDONALD: ...concerning compulsive gambling. Thank you. Looking for those in support of LB1058, please come forward. [LB1058]

CHARLES SPENCE: Good afternoon, Chairman McDonald and members of the committee. My name is Charles Spence, C-h-a-r-l-e-s Spence S-p-e-n-c-e. I'm the clinical director and director of the gambling program at Spence Counseling Center in Omaha. I am one of the two Region 6 providers at this point in time. I have come here to support LB1058 and also to voice my concern about the current affairs in the GAP administration. I've been working with GAP since 2000, and I've worked with every administrator from Tim Christensen through to Eric Hunsberger, the current administrator, and I will continue to work with them for as long as I can. Spence Counseling Center has worked with various state and county agencies over our existence since 1991, beginning with our very first partnering with Douglas County

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

General Affairs Committee  
February 04, 2008

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Domestic Violence Coordinating Council when we began our batters intervention program back in 1998. When I began working with GAP I was encouraged to attend council meetings by Tim Christensen. I attended one and found that they were engaged in a process which was smooth, orderly, and cooperative, and a lot of partnering between the committee and the current administrator or director or whatever the correct title was. Feeling safe in the process and secure that I could turn my attention more to using my time wisely with the consumers, I then did not attend anymore meetings until November of 2007. When I began attending these recent meetings, they were contentious, disorganized, and very little was accomplished during these meetings. Information was asked for by the committee and not granted or not available at the time when the committee had asked for them. There was...on the other side, the committee members did not really seem to understand what their responsibilities were or...and there have been questions about that throughout the entire meeting. As a result, I am concerned with the lack of communication and unity between the committee and the administrator which causes there to be insecurity and confusion for us as providers who should be focused on the consumer and not the states and committees issues in working out their funding and who the funding goes to or how the funding should be spent. As a result, there have also been funding and contractual issues which have also created confusion for us as providers. Specifics would be crisis issues regarding crisis clients. When a client first comes in and they are in crisis, are we supposed to bill for an intake or are we supposed to bill for a crisis session? When we would ask for...from the last administrator in 2004 to 2005 for clarification, we received none except to say that we needed to gather all the information we needed for an intake, but receive about one-third of the funding payment. So a typical evaluation we are supposed to receive \$150 per evaluation. However, for a crisis call requiring more than two-thirds of the information, we are then responsible...we are only supposed to be paid \$60. So with that kind of a contradiction, which one should we do? Another example would be we were told to have our scope of work required and completed by October 1, 2007, and that that was supposed to amend our...we were supposed to receive an amended contract at that point that would clear up some of the discrepancies between our scope of work and our contract. We have yet, as of February 4, not received an amended contract. So we are operating under good faith the state will fall through with this new set of expectations and criteria. I believe that much, if not all, of these issues are a result of it not being clear who holds ultimate fiduciary responsibility over the program. In 1991, LB138 Sections 30, 31, and 32 which set up the GAP and laid out clearly that the committee has the ultimate responsibility to evaluate agencies, groups, organizations, and individuals. The people on the committee are to evaluate agencies and other groups and/or individuals for the treatment capacity and to make recommendations concerning disbursements of funds. These same sections also clearly lay out the responsibilities of the director and/or administrator of the program in very concrete terms as well. However, as noted before in the DHS reform bill of 2004, LB1083, there are no clear responsibilities laid out for either party, so the checks and balances that we had in place up until 2004 have been removed. We, as providers,

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

General Affairs Committee  
February 04, 2008

---

have seen a slow but consistent increase in conflict between the program administrator and committee, including increasing amounts of paperwork, lack of perceived direction from the committee and/or state, and confusing contractual issues which I began to discuss a few of previously which take time and energy from us seeing clients and the people that need our help the most. As a result, clarification from the Legislature would be, in my estimation, a help to quell the contentious air surrounding the committee and the DHS relationship, and enable us to as providers to be given more security, direction, clarification in how we should best help the consumers of the state of Nebraska. This would allow us to return to our primary responsibility once again helping the consumers of our state who struggle with compulsive gambling. I believe that the consequences of not passing this bill are threefold, that the continued contentiousness between the committee and the administrator will go on and on and on. Continued uncertainty and confusion concerning contracts versus scopes of work for us as providers in the GAP. Thus taking away time and energy from us being able to see consumers. And three, the possibility of other programs and agencies discontinue this type of program due to the politicalness, contentiousness, and confusion surrounding the statutory status of who has fiduciary responsibility over GAP funds. Thank you. [LB1058]

SENATOR McDONALD: Thank you, Chuck Spence. Any questions? I know that you talked a little bit about what it was like prior to what is happening now. Can you tell me the time that you have to commit to your patients? How does that relate to what happened prior to the changes? Have you been able to spend as much time with your patients as possible? Are you spending more time doing paperwork? Tell me what your frustrations are in those situations. [LB1058]

CHARLES SPENCE: When I first began seeing clients with GAP funds back in 2000, Tim Christensen was the administrator director and that was prior to Sherrie Geier actually being even hired in her position. At least I believe that was about the time line. She was hired a little bit afterwards. In doing so, we only had to do the same paperwork...and Tim Christensen stated that we only had the same paperwork we needed to do as we did for any other mental health individual coming through the front door to Spence Counseling Center. Since that point, specifically since 2004 which was about ten sheets of paper. The client signs four of them, and we have a pretreatment assessment and treatment plan as well as a case note in our normal mental health folder. We now have 32 pieces of paper that are required for consumers in a gambling file at this point. And so as a result, my paperwork time has increased approximately 50 to 75 percent. That is not including the amount of administrative time that I, as a director, have to engage with the state and engage with my therapist working out exactly who gets paid for what, what the paperwork needs to look like, fielding questions, etcetera. [LB1058]

SENATOR McDONALD: Also have another question. When someone comes to you with a gambling problem, are you able to give the amount of time that that person needs

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

General Affairs Committee  
February 04, 2008

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or are you cut off with you can only give so much time? Are you able to bill for that amount of services at whatever it takes or are you limited on the amount of treatment that you can give that client? [LB1058]

CHARLES SPENCE: We do have one current limitations to the number of sessions per week. Now for the most part that works just fine because of where the limitation is. However, there are those high-maintenance clients that do require more than the current limit of six sessions per week. [LB1058]

SENATOR McDONALD: So if someone is in group therapy and family therapy, are those counted also into the limit and is that where the confusion starts? [LB1058]

CHARLES SPENCE: That's correct, yes. That's exactly correct. [LB1058]

SENATOR McDONALD: So that there are no... [LB1058]

CHARLES SPENCE: There's no real delineation between six individuals, six families, six groups or how that all works itself out. That's correct. [LB1058]

SENATOR McDONALD: Okay. Thank you. Senator Janssen. [LB1058]

SENATOR JANSSEN: Charles, is it more paperwork or are you seeing more people with problems? [LB1058]

CHARLES SPENCE: No, it's actually more paperwork, and we're also seeing more people with problems as well. And so it's a combination of the two. But if I'm able to see more people than on my staff and my overhead and the amount of people time I can actually spend because of the current requirements of the CCGC, there are only a certain number within a pool that we can actually draw from because it's been proven... [LB1058]

SENATOR JANSSEN: You mean caseworkers or people who are working with you, therapist. All right. Yeah. [LB1058]

CHARLES SPENCE: Therapists. Yes. Okay. Because of specialized training we have all received that meet the specific needs of certified compulsive gamblers, there's only a specific number of individuals out there we can draw from. And therefore we can't just go out and hire any MSW, anybody with their master's degree doing behavioral health because it's been statistically proven...I don't have the exact research project that states that right off the top of my head. But when they find mental health therapists and people with their master's degrees and give them specialized trainings, their ability to treat those people goes up statistically significant. [LB1058]

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Transcriber's Office

General Affairs Committee  
February 04, 2008

---

SENATOR JANSSEN: Um-hum. Are there any areas that you can see that could stand some revision... [LB1058]

CHARLES SPENCE: Well what... [LB1058]

SENATOR JANSSEN: ...in order for you to see more people... [LB1058]

CHARLES SPENCE: I'm sorry. [LB1058]

SENATOR JANSSEN: ...and solve more problems with less restrictions? If you had your way, could you find a way to do that? To still do an adequate job... [LB1058]

CHARLES SPENCE: Um-hum. [LB1058]

SENATOR JANSSEN: ...see more patients... [LB1058]

CHARLES SPENCE: Um-hum. [LB1058]

SENATOR JANSSEN: ...and solve more problems? [LB1058]

CHARLES SPENCE: I could definitely find a way to do that, yes. [LB1058]

SENATOR JANSSEN: Okay. [LB1058]

CHARLES SPENCE: The problem right now is the amount of paperwork that is required per client. [LB1058]

SENATOR JANSSEN: Do you think that's excessive? [LB1058]

CHARLES SPENCE: Pardon? [LB1058]

SENATOR JANSSEN: Do you think that is excessive? [LB1058]

CHARLES SPENCE: Yes. Oh, absolutely, absolutely. [LB1058]

SENATOR JANSSEN: Are we creating more paperwork to give more people jobs? [LB1058]

CHARLES SPENCE: That's a good question. I'm not quite sure what the more paperwork is. Paperwork has very little to do with actually helping anybody. [LB1058]

SENATOR JANSSEN: Um-hum. [LB1058]

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

General Affairs Committee  
February 04, 2008

---

CHARLES SPENCE: When we are accepted by 75 different boards, insurance boards, from BlueCross and BlueShield to United Behavioral Health, none of them require any of this paperwork. But it's required by GAP and it's all begun since 2004. Prior to that, there was never any requirement of any of that. I could use the exact same forms that BlueCross and BlueShield, Medicaid Nebraska, all of them accepted. [LB1058]

SENATOR JANSSEN: Thank you. [LB1058]

CHARLES SPENCE: Um-hum. [LB1058]

SENATOR McDONALD: Who requires the paperwork and what's it used for? Do you get reports back saying, okay, you've submitted this, we're looking to put surveys together, we're putting all this information... [LB1058]

CHARLES SPENCE: Quite honestly no one sees it except for the program director/administrator at this point in time. We do put information into the Magellan Health Systems database, and apparently that information has been sent off to UNL's policy program or public policy board. [LB1058]

SENATOR McDONALD: And have you...how long have you been doing that? [LB1058]

CHARLES SPENCE: Well, I've been entering that survey data in since 2000. [LB1058]

SENATOR McDONALD: Have you heard any reports back since then? [LB1058]

CHARLES SPENCE: I've not heard any real reports back since then, no. [LB1058]

SENATOR McDONALD: Since 2000, it's 2008. [LB1058]

CHARLES SPENCE: That's correct. Yeah. [LB1058]

SENATOR McDONALD: Who's requiring all the paperwork? Is it for this university project or is it the director? [LB1058]

CHARLES SPENCE: The director and that director began expecting that in 2004 and of course we've had a change of directors and so I don't think it's an individual. I think it's a systemic issue because it goes beyond any one program director. [LB1058]

SENATOR McDONALD: But yet you have not received results of what you're doing with the paperwork? Okay. Thank you. [LB1058]

CHARLES SPENCE: No, no. The expectation is that we're apparently preparing for something in the future, but we're not sure exactly what...you know, when that will

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

General Affairs Committee  
February 04, 2008

---

come, if that will come. [LB1058]

SENATOR McDONALD: Okay. Any other questions? Seeing none, thank you Chuck Spence. [LB1058]

CHARLES SPENCE: Thank you. [LB1058]

SENATOR McDONALD: Looking for support for LB1058. Anyone else wishing to testify in support? Welcome. [LB1058]

DON WARREN: Thank you. Good afternoon Chairperson McDonald, members of the committee. My name is Don, D-o-n Warren, W-a-r-r-e-n. I'm here today as the vice chair of the State Advisory Committee on Problem Gambling and Addiction Services to testify in support of LB1058. I've been a member for the past two years of the GAP committee. When I initially was appointed to the committee, it was my understanding that I was going to be part of an advisory board that had a direct impact where dispersed...or direct impact regarding available money were dispersed for the treatment and education for addictive gambling services. I was under the impression there would be a thorough orientation on what the purpose of the committee was and what my role would be on the committee. I received no orientation. I've had to rely upon members of the committee that are more tenured than myself, such as Ms. Geier and some of the other committee members. So for me I feel as though my position has been compromised. Some of my concerns are the following with regard to funding, with regard to lack of information, and that the dollars that are available for treatment and education that they be properly dispersed as provided for in its legislative intent. And since I've been a member, that has been a constant issue as to where those dollars are appropriately supposed to be provided, and that issue is constant between the committee and the program administrator. My sole reason for applying to be a member on the committee which I was appointed to was that to help the individuals that were affected by the disease of compulsive gambling and to help them get the treatment and services that they need. So that is why I got on the committee, and the two years that I've been on the committee has been a struggle. [LB1058]

SENATOR McDONALD: Thank you. Any questions? Senator Dubas. [LB1058]

SENATOR DUBAS: Thank you, Senator McDonald. Who appointed you to this committee? [LB1058]

DON WARREN: It was an application to the Governor's Office. [LB1058]

SENATOR DUBAS: Did you have to go through a confirmation hearing then? [LB1058]

DON WARREN: It was all done via mail. [LB1058]

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Transcriber's Office

General Affairs Committee  
February 04, 2008

---

SENATOR McDONALD: Then I want to ask a couple about the committee. How many members are on the committee? [LB1058]

DON WARREN: Right now I believe we have...I want to say we're down to seven, I believe. [LB1058]

SENATOR McDONALD: Down to seven, so you have some vacancies? [LB1058]

DON WARREN: Yes, we do. [LB1058]

SENATOR McDONALD: How many vacancies do you think that you have? Do you know? [LB1058]

DON WARREN: Twelve, so we have approximately five vacancies. [LB1058]

SENATOR McDONALD: Five vacancies, and how long have those vacancies been there? Have you had a full committee since you've been there for two years? [LB1058]

DON WARREN: No. [LB1058]

SENATOR McDONALD: Not had a full committee. Why do you say if you have a committee of 12, and you have 5 vacancies, how come there are 5 vacancies on a committee? Are those vacancies...why are those vacancies not being filled? [LB1058]

DON WARREN: That was one of our topics of conversation a couple of meetings ago with regard to how we fill those positions. And a lot of it's word of mouth, whether that from a provider that has someone who we are required to have a certain number of consumers on the committee, as well as the other individuals on the committee all have, I guess, specific experiences. I work for the Department of Corrections. We have someone from probation. We have someone...an attorney, a doctor. So we've got a vast group of individuals with a lot of different knowledge. So that was one of the things that was brought up is that if we had any contacts or anybody that felt might be a good member and bring something, say an educational piece, to the board that we may help that by soliciting individuals who may be interested. [LB1058]

SENATOR McDONALD: So in other words, you do have to have certain people from certain segments of life to serve on that board. You can't just be all consumers, can't be all providers, it has to be a different backgrounds. Is that what you're saying? [LB1058]

DON WARREN: That's what the hope is, is that everyone can bring a different piece to the table. [LB1058]

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Transcriber's Office

General Affairs Committee  
February 04, 2008

---

SENATOR McDONALD: Have you lost any committee members recently? [LB1058]

DON WARREN: We have our vice chair whose place I took. We lost...and there's...we've had another resignation on the board. So we've had a consumer and the vice chair resigned recently. [LB1058]

SENATOR McDONALD: And can you expand on why they left the advisory committee? [LB1058]

DON WARREN: We received a letter from the one individual on the board and they basically stated that they struggled with the way the program was being administered. So therefore they tendered their resignation from the committee. [LB1058]

SENATOR McDONALD: Thank you. Senator Janssen. [LB1058]

SENATOR JANSSEN: Mr. Warren, where would you say the majority of the people who need help, where is their addiction coming from? [LB1058]

DON WARREN: As far as the type of gambling? [LB1058]

SENATOR JANSSEN: Yes, is it mostly scratch tickets? [LB1058]

DON WARREN: That I really can't speak on. I'm sure that any number of the providers that are here today could give you more information with regard to that. Like I was saying earlier, my intent was to see that the monies that are available go to provide treatment primarily, and education, awareness, outreach, those types of things. Yeah, there's so many different forms of gambling right now and not only in Nebraska but surrounding us that it's becoming more and more of a problem for the public. And there's a lot of treatment that's needed out there. [LB1058]

SENATOR JANSSEN: Thank you. [LB1058]

SENATOR McDONALD: Are you a provider? [LB1058]

DON WARREN: No. [LB1058]

SENATOR McDONALD: So you wouldn't have that information. [LB1058]

DON WARREN: No. [LB1058]

SENATOR McDONALD: Okay. Thank you. Any other questions? Seeing none, thank you for testifying. [LB1058]

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

General Affairs Committee  
February 04, 2008

---

DON WARREN: Thank you. [LB1058]

SENATOR McDONALD: Looking for support for LB1058. [LB1058]

MARK BROHMAN: (Exhibit 4) Madam Chair, members, my name is Mark Brohman, that's spelled M-a-r-k B-r-o-h-m-a-n, and I am the executive director of the Nebraska Environmental Trust and I'm here today testifying in support of LB1058. Before we start, I'm passing around a copy of our 2007 annual report, hot off the press last week. Each of you will receive one in your office, but I wanted to bring the committee a copy today. Inside the front cover on page 2 you will find the lyrics to Beautiful Nebraska. So during executive session I might help Senator Karpisek out by having the words right here. And by the way, we do have Jim Fras and Guy Miller attributed to that saying and this is in the message from our board chairman, Paul Dunn. He wrote a real nice letter and included the words to Beautiful Nebraska saying that kind of summed up what he feels being part of the trust. So I wanted to point that out. I thought that was kind of interesting that that came up on the bill previous to this. We're here today, of course. We're celebrating our 15th year, the Nebraska Environmental Trust, of being in existence and we receive 44.5 percent of the lottery proceeds that go to the beneficiaries. That's about 9 cents for every powerball and scratch ticket that's purchased, and over those 14 and a half, 15 years we've received over \$116 million which we've turned back out to grants across the state of Nebraska for 952 projects. We operate on a very low overhead, about 3 percent of our funds or less are used for administrations, salaries, and administration of the grants. So as far as an organization, that's very efficient. So you can sleep well knowing that your funds are being well spent by the trust. Our funding categories are determined every five years. Right now the funding categories that we operate under are habitat, surface and ground water, waste management, air quality, and soil management. So those are the topics that we deal with. This year our grants will be announced, our preliminary grant awards, will be announced this Thursday. Our board will be meeting across the street at the Ferguson Center on Thursday afternoon and we'll put out our preliminary list, and we have about \$14.5 million worth of projects this year that we will be granting money to. The preliminary list is the list that the grant subcommittee comes up with, the full board approves, and then we take comment from the public and we make that list finally in April at our next board meeting. But this Thursday will be the preliminary list of who is getting the grants. I wanted to list just a few of the types of grants that we funded in the past. I know that many of you have supported the trust over the years and we appreciate that support at the Legislature. We funded many lake restorations, watershed improvement projects, urban educational programs in centers like Lincoln, Omaha, Beatrice, Kearney, worked with educational groups like Fontenelle Forest, Pioneer Park here in Lincoln, research projects on the Platte, Republican, Niobrara, and Missouri Rivers, sponsored household hazardous waste collections and pesticide collection projects across the state, Superfund projects in Omaha, Mead, and Hastings, recycling centers and equipment including trailers and bailers and other equipment used

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

General Affairs Committee  
February 04, 2008

---

in the recycling industry, prairie burning projects, purchase and protection of habitat, filter and buffer strips, control invasive species and noxious weeds across the state, groundwater protection projects, cost share programs with landowners for habitat, conservation, and restoration, projects to help livestock producers control odor and manure application to land, cost sharing of water meter installation, and purchasing of no-till drills across the state to plant native prairies for habitat. So those are the kinds of projects. Of course you can look through this years annual report and see what we funded in '07, and like I said, this years grants will come out this week and we'll have the next round of grantee so they're successful. The trust supports extending the Lottery Act, which is the reason we're here today, extending it from July 1, 2009 to 2012. By extending that date we continue to operate under the existing setup which was mentioned earlier today. The existing setups working well for us. We think it's to our advantage to continue with the existing setup compared to changing that setup with the payouts and payments to retailers. And most of LB1058, as you've heard from the last two testifiers, deal with the Compulsive Gamblers Act Fund and we do not have any concerns with the proposed changes to that fund. But we do support the Lottery Act extension. And with that, I would be glad to answer any questions and I would just like to thank you all for your past and continuing support of the trust. [LB1058]

SENATOR McDONALD: Thank you, Mark. Any questions? Seeing no questions, thank you for your testimony. [LB1058]

MARK BROHMAN: Thank you. [LB1058]

SENATOR McDONALD: Any other testifiers in support of LB1058? Welcome. [LB1058]

DENNIS McNEILLY: Thank you. Good afternoon, Madam Chairperson and committee members. My name is Dr. Dennis McNeilly, D-e-n-n-i-s M-c-N-e-i-l-l-y. I'm an associate professor of psychiatry and a general psychologist at the University of Nebraska Medical Center in Omaha, and I currently serve as the secretary of the State Advisory Committee on Problem Gambling and Addiction Services. I'm here today to testify in favor of LB1058 as amended by the proposed amendments striking Sections 1 and 3 and insertions on page 7. I'm the newest member to that committee. The Governor Heineman appointed me to the State Advisory Committee in October of 2007. While my time on that committee has been relatively brief, I have previously served on a number of nonprofit board of directors, task forces, and advisory committees. Since 2000, I have served on the National Council Problem of Gambling board of directors, and since 2003 been a member of their executive committee. I currently serve as the president of the National Council of Problem Gambling. I've also served on the boards of the Midlands Chapter of the Alzheimer's Association, and currently serve on the Advisory Committee of the Association of Behavioral Sciences and Medical Education, and the Ethics Committee of the Nebraska Psychological Association. Now, while I'm not here today representing the National Council on Problem Gambling, I do wish to represent my

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

General Affairs Committee  
February 04, 2008

---

recent understanding and experience of the State Advisory Committee on Problem Gambling. Three meetings have clearly demonstrated to me the need for a definition of the committee's purpose and parameters of power. My experience and service on numerous other advisory committees suggests that the State Advisory Committee on Problem Gambling would best serve the interests of the people of the state of Nebraska and problem gamblers and their families if its focus was on the macro and not on the micro level of management. For example, the committee should be that of a citizen commission that sets policy, makes decisions in regard to funding priorities and direction, and provides fiduciary guidance to the Gambling Assistance Program administrator. It should not be involved in micro management of particular contracts with gambling treatment providers and bill paying which is best left to the individual in the position of the Gambling Assistance Program administrator. Such macro commission and micro administrator division of responsibilities makes the best use of everyone's time, particularly committee members who only meet on a quarterly basis. The three committee meetings that I've attended have also clearly demonstrated to me the lack of understanding of the division of power exists between the committee and current Gambling Assistance Program administrator. LB1058, as amended, addresses and clarifies this situation so as inevitable personnel and committee changes occur the best structure, oversight, and policy initiation remains on a responsive course to the treatment of problem gamblers and their families in Nebraska. I urge your adoption of LB1058 to restore the macro level responsibilities of this citizen commission. I also urge this committee to ensure that a full complement of 12 members be appointed to the State Advisory Committee on Problem Gambling as soon as possible. Thank you for allowing me to speak with you this afternoon, and also thank you for your service and concern in helping problem gambling and problem gamblers in the state of Nebraska. Thank you. [LB1058]

SENATOR McDONALD: Thank you, Dr. McNeilly. Any questions for Dr. McNeilly? Do have one, can you tell me is problem gambling addiction different than...the treatment for those different than other addictions? [LB1058]

DENNIS McNEILLY: Yes, it is and as a result requires different level of training and insight for the providers, and that's why there is a system of training, which I've done some of the training for the state, that's currently carried out by the executive director of the Nebraska Council on Compulsive Gambling, Jerry Bauerkemper. He does a lot of training of providers in the state and throughout the country. To help providers recognize that when you're treating with a gamblers it's a different kind of treatment necessary than someone with another kind of an addiction. [LB1058]

SENATOR McDONALD: So even if you're a mental health provider, it doesn't mean that you could adequately treat gamblers. [LB1058]

DENNIS McNEILLY: Not without adequate training, no. [LB1058]

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Transcriber's Office

General Affairs Committee  
February 04, 2008

---

SENATOR McDONALD: Okay. My next question is the amount of time that it takes to treat a client, treat them all the same, somebody comes in a crisis, can you give them an hour, two hours, five hours? [LB1058]

DENNIS McNEILLY: It depends on the individual. It all depends on lots of things. It depends upon how long the person has been gambling, what their previous experience has been, if they're relatively new to gambling. My area of research primarily, and how I became involved in this, is that we started to see...I work with geriatrics in geriatric psychiatry at UNMC and we started to see problem older adult gamblers three years after the casinos opened in Council Bluffs. And so this was an age group that previously...I mean, in our clinic we'd never seen anyone before, and that age group is really divided between those who are new to gambling and those who would have gambled, you know, in their younger adulthood, had the financial wherewithal to go to Vegas or Atlantic City or whatever. So a lot of it has to do with their previous experience with gambling, if it's been a problem before, if this is sort of an episodic thing. There's a number of factors that then factor into what kind of treatment, what the duration of the treatment would be for a particular gambler. [LB1058]

SENATOR McDONALD: Okay. Any other questions? Senator Karpisek. [LB1058]

SENATOR KARPISEK: Thank you, Senator McDonald. So, Doctor, when someone comes in, do they relate to you on which way their treatment is going to go? Do you set that yourself? Are they engaged in their treatment? [LB1058]

DENNIS McNEILLY: It depends. For most people to recognize that they have a gambling problem requires a great deal of guilt and shame and recognizing that they even have a problem so that they are even going to seek help to begin with. I mean, in the older population, most of them would consider it financial problem before they consider it a gambling problem. So they're going to go through those options first until they recognize that it's a gambling problem. So it takes a great deal for people to get to the point of contact for treatment, and so therefore then it really...as you pointed out, it takes somebody who is able to assess to help a person recognize what is going to be tailored to that individual and what is going to be most responsive for that person. [LB1058]

SENATOR KARPISEK: Very good. That's what I was after. Thank you, Doctor. Thank you, Senator. [LB1058]

DENNIS McNEILLY: Um-hum. [LB1058]

SENATOR McDONALD: Seeing nothing else, I guess my last question to you would be if this doesn't pass, what do you think the future of the program is? And I also have a

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Transcriber's Office

General Affairs Committee  
February 04, 2008

---

second question, that paperwork that's being talked about, is that also an issue that you've had to deal with and have you seen results of the paperwork that's been required? [LB1058]

DENNIS McNEILLY: Well, my experience is limited to just the three meetings that I have attended. Since I came on the commission, I would say that there's a great deal of consternation, is probably the best way to put it, as to roles and what is responsible. The other...in my other role as the president of the National Council of Problem Gambling I understand that part of what I think is the attempt that's being made on the part of the gambling assistant administrator is trying to generate some statistics in order to prepare Nebraska to be able to apply or to be in a position to apply once federal funding possibly, maybe becomes available for gambling treatment. I think that's what's the thinking behind it which is what all this paper generation, I think, is all about. Unfortunately, I think when you have someone in an entry-level position, they don't necessarily have the background necessary to guide those sort of efforts, and that's where I think you need a commission who draws upon sort of the wisdom of many rather than the wisdom of one. [LB1058]

SENATOR McDONALD: And so you're thinking...the thought is that there will be federal dollars to support the gambling issues? [LB1058]

DENNIS McNEILLY: Well, there has been two different attempts to introduce federal legislation. The first attempt failed because the congressman from Massachusetts who was introducing it resigned from Congress. And so then someone else picked it up and then it was going to be reintroduced and then of course an election year, then nothing has happened. And so it's one of those things that we as a representative, the National Council of Problem Gambling, we're certainly advocating for on Capitol Hill. But whether that happens has to do with SAMHSA Grants and whether that all comes to form, I don't know. Certainly that's the hope. [LB1058]

SENATOR McDONALD: So it's...that's hope but it's rather vague whether there will be... [LB1058]

DENNIS McNEILLY: Oh, absolutely, absolutely. [LB1058]

SENATOR McDONALD: So it's kind of a shot in the dark, so to speak, if that could happen. [LB1058]

DENNIS McNEILLY: Well, I mean I think that that's, you know, various states are trying to prepare themselves to be in a position where they've got sort of a paper trail to be able to say we're ones who could apply. But again that's based upon sound data and that's the problem. And I think that's the frustration, at least my perception of the providers frustration is, they're gathering numbers but they're not sure what those

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

General Affairs Committee  
February 04, 2008

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numbers are for or where they're going. [LB1058]

SENATOR McDONALD: In looking at if there were federal dollars, do you think the states that actually have legalized gambling--say casinos and those types of programs--would be the ones that would generate the most revenue? We have just the lottery and the dollars that are in our lottery are small compared to a state that has gambling. Do you think that the... [LB1058]

DENNIS McNEILLY: Certainly. I think that's part of the...yeah, I would suspect that that would be part of the selection process as to those sort of pilot study sites that might be picked would be those that have more gambling in their states than others. [LB1058]

SENATOR McDONALD: Okay. Thank you. Any questions? If not, thank you for coming. [LB1058]

DENNIS McNEILLY: Okay. Thank you very much. [LB1058]

SENATOR McDONALD: Any others in support of LB1058? Seeing none, anyone in opposition to LB1058? Welcome. [LB1058]

SCOT ADAMS: (Exhibit 5) Good afternoon, Senator McDonald, and members of the General Affairs Committee. My name is Dr. Scot Adams, S-c-o-t A-d-a-m-s, director of division of Behavioral Health, Department of Health and Human Services. I am here to testify in opposition to LB1058 and the proposed amendment, AM1759. LB1058 transfers responsibility of administrating the Gambling Assistance Program, including the awarding of funds under the Gambling Assistance Program, from the department to the State Advisory Committee of Problem Gambling and Addiction Services. Shifting administration of state funds from the state agency to a volunteer group is just not good public policy. The members on the committee may represent providers eligible to receive funds for services or who have been or are currently consumers of services which could be a conflict of interest if they are making funding decisions. In the green copy of this bill the committee's roles and responsibilities change. A volunteer committee should not be legally responsible for funds allocated by the department or to the department. Also plan for administration need to be removed in order to ensure that the department maintains responsibility to distribute, assess, and evaluate funds used under this bill. It would be more helpful if the committee would issue their report before the end of the fiscal year instead of within 60 days after the end. We have reviewed the proposed amendment to LB1058. We still have strong concerns because the amendment goes further in the direction of allowing volunteers who are not held to the same level of accountability, training and supervision as state agencies to administer the program, rather than providing recommendations which is the function and role of most all other state advisory committees. Specifically in subsection 3, the role of the committee is changed from advisory to administrative. The approval and use of the

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

General Affairs Committee  
February 04, 2008

---

funds in evaluating and approving applications are executive branch staff functions, not that of a volunteer committee. A specific concern is that the department at times receives confidential information about a provider that can be critical to the overall success of the Gambling Assistance Program, investigations of allegations against providers. This should remain a function of government, not volunteers and communication of this to volunteers should not happen pending such investigations. No language on the quality of providers is provided as part of the guidelines and standards adopted by the division. Additionally, it's not technically possible for a volunteer committee to implement an outreach and educational program because they have no staff to do the work. Further, the authority given to this voluntary group to engage in "other activities the committee finds necessary" is overly broad. Having cited our concerns with this bill, then we also acknowledge that there have been problems with the Gambling Assistance Program in the past year. Some people have expressed concerns about its directions. You've heard some of those concerns today. Other people have lauded the vision of the program for its national positioning as a leader in treatment and education about problem gambling. I've been working with Senator McDonald and her staff in the last month to develop further the strengths of the program and to correct the problems. I want to thank Senator McDonald and her staff, at this point, for your leadership and developing and being the champion for gambling assistance programs in the state. I believe that Senator McDonald and we have a working framework for improvements in performance and relationships. However, I firmly believe that executive branch functions ought to remain with professional staff who are accountable, not with volunteers who could have a potential conflict in allocating state funds. In summary, the green copy of this bill and the proposed amendment create serious issues about the role of volunteer committees versus the role of agencies. Roles are reversed with this bill, lines of accountability are less clear, appropriate professional confidentiality is compromised. We believe that volunteer committees do not have the resources or staff to administer programs, and these administrative functions are appropriately placed in the executive branch. I might add the concern, just briefly, about the 32 forms. There is some concern about that and I am under the impression that 13 of the 32 are required forms. The others are either voluntary or assist in particular elements of the research being developed. With that, I would thank you for your attention and do my best to respond to questions you may have.. [LB1058]

SENATOR McDONALD: Thank you, Dr. Adams. Senator Dierks. [LB1058]

SENATOR DIERKS: Dr. Adams, regarding the forms that you're discussing, who's responsible for drafting the forms? Who's responsible for making it necessary for these forms to be filled out? [LB1058]

SCOT ADAMS: At present, most of the forms that are required forms are forms that are part of the Magellan Administrative Service Organization contract. As with the other

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

General Affairs Committee  
February 04, 2008

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elements of behavioral health reform, Magellan is the current provider of ASO services that helps us to identify, track, and manage clients in the client system. Last Friday, we placed on the Web site our renewal application placing that contract up for open bid in a competitive bid and we expect to improve the relationship, improve the outcome, improve the services as a result of this next go around with that service contract. [LB1058]

SENATOR DIERKS: Are some of these requirements due to federal guidelines? Are they mostly state guidelines? [LB1058]

SCOT ADAMS: I would have to say most of these are probably state guidelines with regard to trying to manage and understand the nature of the clientele. [LB1058]

SENATOR DIERKS: And they increase pretty erratically over the last ten years. [LB1058]

SCOT ADAMS: Well, as Dr. McNeilly noted, that much of this is sort of related to research efforts to try to prepare Nebraska for positioning with regard to federal opportunities with federal national outcome measures and standardized achievement levels. So we've been engaged with conversations with other states and federal government entities and we've begun sort of the early steps of data acquisition. So we probably have brought some of that on ourselves, but I would like to reiterate that 13 of the 32 are mandatory forms. [LB1058]

SENATOR DIERKS: So do you think the other 19 could be done away with or not? [LB1058]

SCOT ADAMS: Well, you know it depends on your view of research, progress, moving on, that kind of thing, but certainly individual providers could make some of those decisions. [LB1058]

SENATOR DIERKS: I've always had concerns about the amount of paperwork that the Legislature puts on the bureaucracy. [LB1058]

SCOT ADAMS: Yes, sir. [LB1058]

SENATOR DIERKS: I think we've really outshined ourselves in education, for instance. I served on the school board in little Ewing, Nebraska, for 15 years and came to the Legislature for 16 and went back and got written into the school board again for 2. And it's just amazing the amount of paperwork those principals and superintendents have picked up over the last 30 years. [LB1058]

SCOT ADAMS: Yes. [LB1058]

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Transcriber's Office

General Affairs Committee  
February 04, 2008

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SENATOR DIERKS: And we did it to them right here in the Legislature and that's just...well, some of it's federal and some of it's title funding. But we did a lot of it and I would just like to see if there's some way we couldn't correct that. [LB1058]

SCOT ADAMS: Yeah. I think that part of our conversations with Senator McDonald and her office will involve that kind of simplification of the system, if you will, and I look forward to that opportunity. Certainly in my experience in the private sector I've had the same thing in terms of the substance abuse side of recovery where there is sort of an ever-increasing demand on paper and data and those kinds of things. The flip side of that, of course, is in many instances, the requirements and expectations for fuller accountability and documentation lead to more and more forms. It seems like it's a maddening kind of thing. But I'm happy to work with Senator McDonald's office and others and the committee to find ways to minimize that. [LB1058]

SENATOR DIERKS: Thank you. [LB1058]

SENATOR McDONALD: Senator Preister. [LB1058]

SENATOR PREISTER: Thank you, Senator McDonald. Dr. Adams, good to have you with us today and to have your perspective. Your premise is that administrative functions should remain with the executive branch and not with volunteers. That resonates with me and that makes sense, but some of the things we've heard today lead us to believe that there are people administering the program that don't have background or don't have the direct experience, so it kind of undermines your premise. Would you care to comment on that? [LB1058]

SCOT ADAMS: Well, sir, I would answer in a couple of different ways. One, when I first got into the field of addictions, it used to be the case that you had to be a recovering alcoholic to work with recovering alcoholics. And I think at this point in time in terms of the maturity of the field that most people understand that while there's certainly great value in special insight and ability to relate to people on an individual basis, that is not necessarily a critical or disqualifying criterion, if you will. Secondly, I think that's exactly the purpose and role of an advisory committee, to help provide that kind of balance to a person who may not have that kind of background and experience brought to the table and to be able to be helpful and encouraging the person at that moment. Obviously, the person has to be willing to accept that kind of help and insight and background to have the balance effected, if you will, and we'll work toward that goal. [LB1058]

SENATOR PREISTER: And getting back--thank you--getting back to Senator Dierks comments on the amount of forms that have to be completed, you said 13 of them were required. Where is that requirement from? [LB1058]

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Transcriber's Office

General Affairs Committee  
February 04, 2008

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SCOT ADAMS: That requirement is really as a result of our relationship with Magellan Behavioral Health Organization in terms of...so there really is something that we've asked Magellan to track and to do. And so as part of that system we require that information. We should take responsibility for that. [LB1058]

SENATOR PREISTER: So it's not an outside requirement. It's an internal administrative requirement that we have self-imposed. [LB1058]

SCOT ADAMS: Yes, sir. [LB1058]

SENATOR PREISTER: Okay, and then the...I assume there's some reason for that. It doesn't sound like though the providers understand where the information is going and as somebody who has worked with people, you can appreciate when people have to do things but have no idea if it's valuable, if it's being used in some capacity or what that capacity may be that they wonder if they're just wasting their time. Is there a way to identify what those forms are used for, how they're going to be used, so that people at least understand that their time is going into something and that it means something, rather than is just a waste of their time? [LB1058]

SCOT ADAMS: I fully agree with what you're suggesting there in terms of the need for sort of creating a clear understanding of purpose, and providing a feedback loop so that the actual work can make sense within the larger context and then can become even more meaningful upon becoming part of the larger picture. In listening to the testimony today it's clear that we have some work to do with regard to communicating those kinds of things and will be a focus of our conversations moving forward. [LB1058]

SENATOR PREISTER: Thank you. Because after I heard the support testimony for Senator McDonald's bill, it leads me to believe that there are a number of issues that do need to be addressed and I can understand why the bill is before us today. So I hope that we can see some improvements and that those discussions that have started will not only continue, but will be fruitful. [LB1058]

SCOT ADAMS: Me too, sir. [LB1058]

SENATOR PREISTER: Thank you. [LB1058]

SENATOR McDONALD: Senator Dubas. [LB1058]

SENATOR DUBAS: Thank you, Senator McDonald. Thank you, Dr. Adams, for being here. Based on the testimony that was brought forward today it appears to me that this advisory council was very effective in the past and then for whatever reasons, things kind of eroded and changed. And so basically what they're asking is for that effectiveness to return. So I know you're relatively new to your position, but do you have

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

General Affairs Committee  
February 04, 2008

---

an understanding of what made them effective in the past and maybe where we need to go back to with this council? [LB1058]

SCOT ADAMS: Well, you know I think that in the case of committees, commissions, bodies that are adjunct to staff and helpful in the whole process, I think what oftentimes is the...becomes the important part or the energy, the enthusiasm, the passion for the content, if you will, and I think you saw that today. A number of people with longstanding experience in this field willing to work for no pay. You know, they get...maybe get expenses and I'm sure we give them lunch. But you know these are folks who care deeply about this and are willing to just take a day off, as Mr. Spence said, from work and productive reimbursable activity. That's a core value. As I said earlier with regard to be able to provide the insight to the nuance of the details of such an insidious condition as problem gambling and I think that's another clear benefit. What helped them become effective? I don't fully know what made this group as effective as it was at one time because that was not my area of expertise and I didn't pay attention to it as much as perhaps I could have, I suppose, at that time, but I was doing other things in my other job. What I want to do though is to find that energy and to give that rebirth again so we are aligned with regard to purpose, intentions, goals, and objectives and that we're all on the same page, pulling in the same direction. [LB1058]

SENATOR DUBAS: I hope that's the case because most people don't mind giving up their time and their energy if they feel that their efforts are productive and are worthwhile, and I'm just getting the very strong impression that these people are feeling like their efforts aren't worthwhile anymore. And it's hard enough to get people to step forward and volunteer for things even when those efforts are productive. So I don't want to dismiss what the contribution of this committee has been in the past. [LB1058]

SCOT ADAMS: Absolutely. [LB1058]

SENATOR DUBAS: Thank you. [LB1058]

SENATOR McDONALD: Any other questions? I have a few. So you're telling me that only 13 are required and so our providers could throw the rest away with no consequences whatsoever? They only need to fill out 13 of them and the rest are just waste? [LB1058]

SCOT ADAMS: Well, no, I wouldn't quite think of it that way. I think one of the consequences would not be enabled to have the necessary information, background, and ability to sort of formulate larger policy and relationship for the state of Nebraska in relationship to the conversations going on with national outcome measures, for example. [LB1058]

SENATOR McDONALD: So you're saying they are required? Because I'm hearing from

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Transcriber's Office

General Affairs Committee  
February 04, 2008

---

my providers that they have to do all of them, no exceptions, and then you're not telling me that. But you are telling me that. [LB1058]

SCOT ADAMS: Well, no, I'm saying...what I am saying to you is that 13 of the 32 are required. The others...you asked about a question about consequence. I'm saying there's not a consequence if they were to toss them out with vis-a-vis payment or engagement in the system, there would be a consequence to the state of Nebraska in that there would be lesser quality and lesser preparation for a larger movement. It's not without meaning and purpose. [LB1058]

SENATOR McDONALD: But they don't have to fill them out if they choose not to. [LB1058]

SCOT ADAMS: Yes, ma'am. [LB1058]

SENATOR McDONALD: Only the 13. [LB1058]

SCOT ADAMS: Yes, ma'am. [LB1058]

SENATOR McDONALD: Okay. Can you tell me who the director of the program is now? [LB1058]

SCOT ADAMS: Eric Hunsberger is the program manager for the Gambling Assistance Program. [LB1058]

SENATOR McDONALD: And can you give me his background and qualifications for this position? [LB1058]

SCOT ADAMS: Eric filled the position prior to my coming on-board, and so I'm not entirely familiar with his resume because I haven't looked at it. He was in the position already. Eric had come on in a part-time position with the department associated with the Gambling Assistance Program and was involved in other activities involved in behavioral health division and in field operations. He has involvement and background, of course, with National Guard and military background in that regard which may or may not be of use to particular sets of client, client groups, and organizations. Eric and I are working closely together at the present time to further the goals and directions of the Gambling Assistance Program. [LB1058]

SENATOR McDONALD: So you're telling me he does not have a mental health background nor a gambling program information? [LB1058]

SCOT ADAMS: Eric has not self-identified himself to me as a person in recovery from any of those conditions. [LB1058]

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Transcriber's Office

General Affairs Committee  
February 04, 2008

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SENATOR McDONALD: Okay. Can you tell me, do you believe that the Legislature should continue to have oversight over the Gamblers Assistance Program because the money comes from gambling revenue and not General Funds? [LB1058]

SCOT ADAMS: You know that is a great question. The relationship between the various branches of government, I think, is an important question and always I think in dynamic tension. Clearly the Legislature has a role and responsibility in terms of the development of policy, appropriation of funds, and expectation of accountability. Clearly the executive branch in my opinion has responsibility for implementation of those policy decision made by the Legislature in conjunction with the Governor. And so in any particular situation, I suppose, it ebbs and flows a little bit in terms of the nature of how the Unicameral engages that. There is, for example, the Behavioral Health Oversight Commission as another group different from the advisory committees because it is responsible to the Legislature and not to the executive branch. It's a creature of that branch of government, rather than the other. So there have been over time different ways of approaching that question, I think. [LB1058]

SENATOR McDONALD: Where do you see the future of the Gambling Assistance Program? [LB1058]

SCOT ADAMS: You know from today's testimony, only better. As I said in my testimony, we clearly have some problems. Relationships with some providers, relationships with the committee itself seem to be questioned and concerning to me, and I hope to make every effort to improve all of those. [LB1058]

SENATOR McDONALD: Any other questions? Seeing none, thank you Dr. Adams. [LB1058]

SCOT ADAMS: Thank you, ma'am. [LB1058]

SENATOR McDONALD: Anyone else in opposition? Anyone in a neutral capacity? Seeing none, I will close. There are a few things to keep in mind. This is a very unique type of program. It takes no General Funds. In fact, more than 81 percent of the funding for the program comes from the Nebraska lottery and charitable gaming. The fund for this program was created by a vote of people and is in the constitution. We have a higher duty to oversee the administration of these funds. We're not creating a new committee here. This is simply returning the things the way they were before behavioral health reform, which resulted in a drastic change of the committees duties. To my knowledge there is no paid staff within the behavioral health division with problem gambling addiction or experience, including the program director. And the argument that gives the bill too much oversight to volunteers and not qualified paid staff is not valid. First of all, the board members are not simply volunteers off the street. They are

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Transcriber's Office

General Affairs Committee  
February 04, 2008

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Governor-appointed members of a board with official statutory duties. They are required to have specialized knowledge, experience or expertise related to problem gambling and addiction. Also at this point there is no qualified staff, which I already mentioned before. Also regulating the argument that the committee has too much power. Well, let me tell you, there are dozens of committees and boards created in statute that have varied degrees of authority that go beyond advisory duties. Many of them have some degree of spending authority and other decision making authority. In a search for the board and commissioners we found a couple of dozen that were compared with the advisory committee on problem gambling and addiction. They were created to be advisory. Their members who must maintain certain qualifications who are appointed exist under a parent agency and do not stand on their own and they have specific statutory duties which they must abide by. To name a few: The Green Belt Advisory Committee to whose recommendations the Tax Commissioner is to respond and explain the basis for approval or rejection of its recommendations; the Indigent Defense Statutory Advisory Council responsible for developing and recommending guidelines and standards for indigent defense system and standards for the use and expenditure of funds for the awarding of defense contracts; the Tuition Recovery Cash Fund Advisory Committee responsible for administrating the fund; the Breast and Cervical Cancer Advisory Committee which assists the department to adopt a schedule of fees and establish income guidelines; the Veterans Advisory Commission which is empowered to investigate handling of veterans affairs and report to the Governor and act to appeal boards for claims for aid with the Veterans Aid Fund; Crime Victims Preparations Committee which has a power of a hearing board; the Public Health Advisory Clinic Formulatory Advisory Committee makes recommendations which the governing board must base its recommendations; Renal Disease Advisory Committee must approve and review all cases; Nebraska State Advisory Council on Libraries required to review and evaluate library systems plans and activities; the Athletic Advisory Committee acts as an appeals board; and I could name many, many more. So this advisory board is not unique. There are various other boards that have the same things that we're asking this board to maintain. So it's not unique to the state of Nebraska to have other boards with various oversight ability. Finally, we as a legislative body do have the right and duty to create the policy as we see fit for the agencies to follow. I hope you see that strengthening the Gamblers Assistance Committee is the necessary policy choice to make sure that we preserve the Gambling Assistance Program. Thank you. [LB1058]

SENATOR KARPISEK: Thank you, Senator McDonald. Are there any other questions for the Senator? Senator Dierks. [LB1058]

SENATOR DIERKS: There's no affect at all on the fiscal standing? There's no fiscal note with this bill. The money is all internal, it stays internal, is that right? [LB1058]

SENATOR McDONALD: Absolutely, and I think that's why it's important to make sure

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Transcriber's Office

General Affairs Committee  
February 04, 2008

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that the advisory committee has the ability to make sure that the funds that were created by the constitution and by state statute are spent the exact way that the voters intended them to spend. And that's very important because these are not General Funds. [LB1058]

SENATOR DIERKS: Thank you. [LB1058]

SENATOR KARPISEK: Thank you, Senator Dierks. Any other questions? If not, that will close the hearing on LB1058 and close the hearings for today. [LB1058]

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

General Affairs Committee  
February 04, 2008

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Disposition of Bills:

LB996 - Advanced to General File, as amended.

LB728 - Advanced to General File.

LB1058 - Advanced to General File, as amended.

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Chairperson

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Committee Clerk