

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

General Affairs Committee  
March 31, 2014

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[CONFIRMATION]

The Committee on General Affairs met at 1:00 p.m. on Monday, March 31, 2014, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on gubernatorial appointments. Senators present: Russ Karpisek, Chairperson; Colby Coash, Vice Chairperson; Dave Bloomfield; Sue Crawford; Bob Krist; and Scott Lautenbaugh. Senators absent: Jerry Johnson, and Ken Schilz.

SENATOR KARPISEK: Okay, we'll get going. Welcome to the General Affairs Committee. We will be doing five gubernatorial appointments today. And members with us are Sue Crawford from Bellevue, Dave Bloomfield from Hoskins, Scott Lautenbaugh from Omaha, Colby Coash from Lincoln. I'm Russ Karpisek from Wilber. Our committee legal counsel is Josh Eickmeier from Seward. He didn't write me out anything, so I'm a little off. And our committee clerk is Christina Case from here in Lincoln. We have three people for the Nebraska Commission on Problem Gambling, and they are all by teleconference. So we'll see if Ms. Bruder will be calling back in. And they are...everyone is a reappointment today. And Senator Krist has joined us from Omaha also. We have three telephone, and so we're waiting on them. [CONFIRMATION]

SENATOR KRIST: Okay. [CONFIRMATION]

SENATOR LAUTENBAUGH: Do you want to do the one live one while we're waiting? [CONFIRMATION]

SENATOR KARPISEK: Well, that's what I was going to ask Chuck. Do you have them set up for certain times? [CONFIRMATION]

CHRISTINA CASE: Well, we have them lined up for the three telephone people first. And they're watching, and they're going to call in. So I guess it's your call. But that's what we planned. [CONFIRMATION]

CHUCK HUBKA: Did you text back that lady to try again? [CONFIRMATION]

CHRISTINA CASE: I did. I said, could you try again, please? [CONFIRMATION]

SENATOR KARPISEK: We'll wait just a little bit. And if that doesn't work then we'll do the live ones. [CONFIRMATION]

CHUCK HUBKA: Hello. [CONFIRMATION]

MARLA BRUDER: (Exhibit 1) Yeah, this is Marla Bruder. I'm calling in for a hearing. [CONFIRMATION]

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SENATOR KARPISEK: Hi, Marla. How are you? This is Senator Karpisek.  
[CONFIRMATION]

MARLA BRUDER: Oh, good. How are you? [CONFIRMATION]

SENATOR KARPISEK: Good. Thanks for calling in today. [CONFIRMATION]

MARLA BRUDER: Uh-huh. [CONFIRMATION]

SENATOR KARPISEK: So we are doing a reappointment for you, correct,...  
[CONFIRMATION]

MARLA BRUDER: Right. [CONFIRMATION]

SENATOR KARPISEK: ...and on the Nebraska Commission on Problem Gambling. Can you tell us a little bit about yourself and why you want to be on the commission?  
[CONFIRMATION]

MARLA BRUDER: I've been fighting a gambling addiction since 2004, actually embezzled to support my gambling habits and wound up having to go to Pekin. So I know all of the ins and outs of treatment, including support of gamblers as well the family support system that is involved. So I just wanted to be on the commission to ensure that that quality of service was afforded to everybody in Nebraska.  
[CONFIRMATION]

SENATOR KARPISEK: Okay. And you've been on...did we just...we just put you on here a little bit ago, right? [CONFIRMATION]

MARLA BRUDER: Yeah, last year. Yeah, I've been sitting on it for almost a year now.  
[CONFIRMATION]

SENATOR KARPISEK: Okay, and is it working well, do you think? [CONFIRMATION]

MARLA BRUDER: Yeah, yeah. [CONFIRMATION]

SENATOR KARPISEK: Good, good. Do we have any questions from the senators? Senator Krist. [CONFIRMATION]

SENATOR KRIST: Just very quickly, not necessarily a question but, Marla, I want to thank you for coming forward. You know, those are the toughest positions to fill, are those who are former addicts who continue to be treated for it. And it takes a lot of courage, and I admire you for doing that. [CONFIRMATION]

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MARLA BRUDER: No problem. [CONFIRMATION]

SENATOR KARPISEK: Thank you, Senator Krist. Anyone else have any questions or comments? Seeing none, thank you, Marla. And we will be meeting later to confirm your appointment. [CONFIRMATION]

MARLA BRUDER: All right. I appreciate it. [CONFIRMATION]

SENATOR KARPISEK: Thanks for calling in. [CONFIRMATION]

MARLA BRUDER: Thank you. [CONFIRMATION]

SENATOR KARPISEK: Thank you. Bye. [CONFIRMATION]

MARLA BRUDER: Bye. [CONFIRMATION]

SENATOR KARPISEK: Hello. [CONFIRMATION]

ED HOFFMAN: (Exhibit 2) Yeah, this is Ed Hoffman. I was just calling in for the meeting. [CONFIRMATION]

SENATOR KARPISEK: Hi, Ed. This is Senator Karpisek. Thanks for calling in. [CONFIRMATION]

ED HOFFMAN: You bet. Thank you. I'm watching. It must not be live. It looks like from the questioning, it looks like it's still questioning going on for Mrs. Bruder. [CONFIRMATION]

SENATOR KARPISEK: Oh, is that right? Well, we must be on a delay then. Chuck says we are on a delay. But we just got done. You called in perfect time. [CONFIRMATION]

ED HOFFMAN: Super. [CONFIRMATION]

SENATOR KARPISEK: Can you tell us a little bit about yourself, Ed, and why you want to be on the commission? [CONFIRMATION]

ED HOFFMAN: And I appreciate you allowing me to appear by phone. I was on the committee before the commission was created. And I chaired the committee prior to the transition to the commission. And I have been involved since 2007 and have really enjoyed the process and have enjoyed working with folks in this area. And there are a lot of committed individuals. Marla Bruder who you just spoke with is one example, and there are a number of providers and folks throughout the state that have really helped Nebraskans, really provided a lot of, you know, free work during this transition. And so

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I've enjoyed it. And I'd like to continue in that position. [CONFIRMATION]

SENATOR KARPISEK: Good, and I know that we had just done your appointment here a little bit ago. And now we're reappointing. Does anyone have any questions, comments? Senator Lautenbaugh. Hopefully you can hear Senator Lautenbaugh. If not, I will kind of be the middleman. [CONFIRMATION]

ED HOFFMAN: Yes, you bet. [CONFIRMATION]

SENATOR LAUTENBAUGH: I want to thank you for being able and willing to serve on this. And are we ever going to get that case resolved or what? [CONFIRMATION]

ED HOFFMAN: I knew you were going to ask me that, Scott. Yes, we certainly will. [CONFIRMATION]

SENATOR LAUTENBAUGH: Okay, I'll withdraw the question. You don't need to elaborate. [CONFIRMATION]

SENATOR KARPISEK: I take it that's probably not about this. [CONFIRMATION]

SENATOR LAUTENBAUGH: No, it is not. [CONFIRMATION]

ED HOFFMAN: No, it's...I'm an attorney and... [CONFIRMATION]

SENATOR KARPISEK: Yeah. Well, that's always good that we can poke fun at you. Anyway, any other questions? [CONFIRMATION]

SENATOR LAUTENBAUGH: Related to this? [CONFIRMATION]

SENATOR KARPISEK: Related to this. Well, or not. I don't...seeing none, I just thank you for serving. And I just always want to point out that we do have the problems in Nebraska even though we seem to not ever want to expand gambling because of the issues. But that doesn't mean that we don't have a lot of problems and just appreciate you helping out. [CONFIRMATION]

ED HOFFMAN: And if I can just very quickly, I would echo what Senator Krist had said that finding consumers such as Ms. Bruder is difficult. And so while they've struggled with issues, it's important to have folks that understand the addiction and are able to bring that to the table. But I do appreciate your time allowing me again to appear by phone. [CONFIRMATION]

SENATOR KARPISEK: No problem. Thank you for being willing to serve, Ed. And we will meet on your confirmation right after the hearing, okay? [CONFIRMATION]

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ED HOFFMAN: Thanks so much, sir. [CONFIRMATION]

SENATOR KARPISEK: Thank you. [CONFIRMATION]

ED HOFFMAN: Bye. [CONFIRMATION]

SENATOR KARPISEK: Were there, I forgot...are there any opponents, proponents, neutral on the last two? I assumed, not seeing not a lot of people here for the hearing. Thank you, Mr. Eickmeier, for reminding me. We are waiting for Janelle Holt to call in. Hello. [CONFIRMATION]

JANELLE HOLT: Hi. [CONFIRMATION]

SENATOR KARPISEK: This is Senator Karpisek. How are you? [CONFIRMATION]

JANELLE HOLT: (Exhibit 3) I'm good. This is Janelle Holt. [CONFIRMATION]

SENATOR KARPISEK: Good, thank... [CONFIRMATION]

JANELLE HOLT: Thank you for letting me call in today. [CONFIRMATION]

SENATOR KARPISEK: You bet. Thank you for doing so. Can you tell us a little bit about yourself and why you want to be reappointed, please? [CONFIRMATION]

JANELLE HOLT: Okay, yeah, great. I have been on the commission for...well, since June. And before that I was on the state committee for a few years. I have a...I'm a certified compulsive gambling counselor, mental health practitioner, substance abuse practitioner. And I have just had a history of being involved with the gambling program and would like to continue providing support in any way that I can. [CONFIRMATION]

SENATOR KARPISEK: Well, thank you for doing that. We appreciate people stepping up. Are we moving forward? I know we're moving forward, but is there a lot more that you people need in this area or are we getting to where we need to be? [CONFIRMATION]

JANELLE HOLT: I think we're getting to where we need to be. Yeah, definitely with the help of the commission members and the people who are now in place, yes, I definitely think we're getting to where we need to be. [CONFIRMATION]

SENATOR KARPISEK: Well, good. That's always good to hear. Do we have any questions from...Senator Krist would like to ask a question. [CONFIRMATION]

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JANELLE HOLT: Sure. [CONFIRMATION]

SENATOR KRIST: Just a real quick comment, we're going to be forced with a decision here quickly to override vetoes obviously. And one of those would affect your funding. Do you have an opinion on why that money is so important and who that will help you reach? [CONFIRMATION]

JANELLE HOLT: The money for the gambling program I'm assuming you're talking about? [CONFIRMATION]

SENATOR KRIST: Yes. [CONFIRMATION]

JANELLE HOLT: Okay. Yeah, I do. I think that the eastern...the western part of the state is very underserved. And I think with that money we can reach (inaudible) state and provide help to get practitioners there and help for the people there who are currently unable to access help unless they are willing to drive a very long distance for that help. So I think that's a lot of the importance for the money right there. [CONFIRMATION]

SENATOR KRIST: Thank you very much. [CONFIRMATION]

JANELLE HOLT: Thank you. [CONFIRMATION]

SENATOR KARPSEK: Thank you, Senator Krist. Any other questions or comments? Seeing none, I just want to thank you for volunteering to do this. And it's an important job, and we appreciate you making time for it. [CONFIRMATION]

JANELLE HOLT: Okay, well thank you. It's my pleasure. I appreciate it. [CONFIRMATION]

SENATOR KARPSEK: Great, and we will do our confirmations at the end of the hearing today, okay, and then go out to the floor with them. [CONFIRMATION]

JANELLE HOLT: Sounds great. Thank you. [CONFIRMATION]

SENATOR KARPSEK: All right. Thank you for calling in. [CONFIRMATION]

JANELLE HOLT: Bye. [CONFIRMATION]

SENATOR KARPSEK: Bye. Okay, very good. Now we will move to State Racing Commission, Jeff Galyen. Oh, proponents or opponents for Janelle Holt? Sorry. Seeing none. Welcome. [CONFIRMATION]

JEFF GALYEN: (Exhibit 4) Thank you. [CONFIRMATION]

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SENATOR KARPISEK: Tell us a little bit about yourself, whatever you want to tell us. [CONFIRMATION]

JEFF GALYEN: I'm Jeff Galyen. I live in Norfolk, Nebraska. I've been on the commission for a little over three years now. [CONFIRMATION]

SENATOR KARPISEK: Questions? Senator Krist. [CONFIRMATION]

SENATOR KRIST: You going to help put to the horse racing back at the State Fair? [CONFIRMATION]

JEFF GALYEN: I lived in Lincoln until about six years ago. I spent about 12 years in Lincoln. And I do miss the live racing at the State Fair. [CONFIRMATION]

SENATOR KRIST: Yeah. Well, I think everyone should try to influence that decision, put it back. Thank you. [CONFIRMATION]

SENATOR KARPISEK: Any other questions? I guess, you know, we hear the racing is dying and we hear from people, everyone...of senators that want to help the industry but then have a hard time voting for what we try to do. Can you tell us a little bit of how the industry is doing in your eyes and what we can do to help out? [CONFIRMATION]

JEFF GALYEN: Sure. The horse racing industry I don't think is any different than any other industry, especially entertainment-related industries. And they have to constantly evolve. And I think we're seeing that across the nation, have seen that across the nation to a certain degree in recent years. And I believe that there's efforts to evolve here in Nebraska too. I have been associated with the horse racing industry for a long time prior to the commission. And there's a lot of people involved, a lot of good people. And I just...it's an industry I think can succeed, and there's a lot of jobs that depend on it that are good for Nebraska, in my opinion. [CONFIRMATION]

SENATOR KARPISEK: How are we handling this now that Lincoln isn't running races? Are we...did other places pick up more races or...? [CONFIRMATION]

JEFF GALYEN: That's a good question. There is a statutorily mandated number of minimum race days. When a...there's a number of minimum race days for the state as a whole. And then there's a number of minimum race days for each licensed track. So after the racetrack at Lincoln no longer ran the number of race days it was running previously, we simply have to, at the commission, ensure that the combined race days in the other tracks are meeting that number. And they are right now. [CONFIRMATION]

SENATOR KARPISEK: Senator Bloomfield. [CONFIRMATION]

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SENATOR BLOOMFIELD: Thank you, Senator. What's going on at South Sioux with Atokad and Ho-Chunk industries and live horse racing or lack thereof and a potential casino? [CONFIRMATION]

JEFF GALYEN: I'll tell you what I do know. [CONFIRMATION]

SENATOR BLOOMFIELD: Thank you. [CONFIRMATION]

JEFF GALYEN: I think that I don't know a lot of the answers you may be requesting. What I do know is that there is no longer live racing in South Sioux City. Because there's no longer live racing, there is no longer simulcast racing in South Sioux City. I believe that the property that previously housed the live racetrack in South Sioux City was sold. And that is the extent of what I know about that. [CONFIRMATION]

SENATOR BLOOMFIELD: They would...well, I guess we'll discuss that when we get to that on the floor. Thank you. [CONFIRMATION]

JEFF GALYEN: Sure. [CONFIRMATION]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Any other questions, comments? Seeing none, I appreciate you serving on this. [CONFIRMATION]

JEFF GALYEN: Thank you. [CONFIRMATION]

SENATOR KARPISEK: And I guess I've kind of gotten myself back into going to the races. And I have to say, I see a lot more people there than I did a few years ago when I went. So hopefully it's coming around. It's tough when the places close. But I know Lincoln has a great facility now, we just need to get a track there. So I'm looking forward to that. [CONFIRMATION]

JEFF GALYEN: I am too. [CONFIRMATION]

SENATOR KARPISEK: Thank you. Any other questions, comments? Seeing none, thank you. [CONFIRMATION]

JEFF GALYEN: Thank you. [CONFIRMATION]

SENATOR KARPISEK: Is there anyone here as a proponent for Mr. Galyen? Any opponents? Anyone neutral? Seeing none, that will close the hearing for Jeff Galyen. Now we have Dennis Lee. Welcome. [CONFIRMATION]

DENNIS LEE: (Exhibit 5) Good afternoon. Thank you for having me. [CONFIRMATION]



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SENATOR KARPISEK: If you could, state and spell your name for the record and tell us a little bit about yourself. [CONFIRMATION]

DENNIS LEE: My name is Dennis Lee, D-e-n-n-i-s L-e-e. I'm an attorney in Omaha. I've been on the Racing Commission since October of 1988, when at that time Governor Orr appointed me to the unexpired portion of Harry Farnham's term. Reappointed following that and have been since then. Prior to that time, I was an attorney with the Racing Commission from 1984 to 1987. And I've essentially had a lifetime of involvement in the horse racing industry. I got my first job at Ak-Sar-Ben on the maintenance crew back when I was a sophomore in high school to pay my tuition to high school at the time. And I've continued that involvement since then. The Governor has seen fit to reappoint me to another term on the commission. I was grateful for that. And I would request that the Legislature give consideration to confirming my appointment again. [CONFIRMATION]

SENATOR KARPISEK: Thank you. Any questions? Senator Bloomfield.  
[CONFIRMATION]

SENATOR BLOOMFIELD: Thank you for coming in, Mr. Lee. I'd like to ask you about the same question I asked the other gentleman. Do you know what's going on up there?  
[CONFIRMATION]

DENNIS LEE: Senator, I've heard probably the same rumor and innuendo that some of you and your constituents may have heard. I do know that the Atokad facility was sold to the Ho-Chunk Tribe. There has been rumor, innuendo of possibly the development of an Indian casino on that property, possible development of returning live racing for a period of time, possible development of simulcasting back at the facility itself. I can share with you that, as of last week, there has not been any license application that the commission has received from anyone, whether it's the Ho-Chunk Reservation corporation or any other entity for a live or a simulcasting license at the Atokad facility. I know that the last information I had and the last time I was up in the Atokad area, some of the barns had been removed. The racetrack surface itself was still present. But the outside rail, the inside rail was in bad disrepair. I remember when there was live racing at Atokad towards the end of its tenure, if you stood in the clubhouse turn even with the rail and you looked to the far turn, the rail had instances where it would jag out a bit. And so maintenance was an issue. And I suspect that any entity, whether it's the Ho-Chunk group or anyone else, in order...anybody can submit, of course, an application for a license. But at a minimum, the commission will require certain minimum standards of the facility itself. And so I, as said at the outset, I believe I've heard some if not all of the rumors and innuendos about that facility, but there is nothing that has been submitted to the commission by any entity concerning that property. [CONFIRMATION]

SENATOR BLOOMFIELD: Okay, thank you. [CONFIRMATION]

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SENATOR KARPISEK: Thank you, Senator Bloomfield. Any other questions? Can you tell us anything about Lincoln, where they're going, what they've done, where they're going? [CONFIRMATION]

DENNIS LEE: Well, as you know, and Senator Krist hinted at this, Lincoln...the racing at State Fairgrounds is now...with the State Fair moving out to Fonner Park, it left this market really empty of a racetrack itself. And the HBPA was able to acquire some property. They have built a simulcasting facility which has been open now for several months. And of course in order to maintain their simulcasting, they have to run a live race each year--a Nebraska-bred live race, minimum of one. That was accomplished for this...let me step back. They have to run a live race in the year preceding, statutorily, the simulcasting year. So the live race criteria in order to simulcast in 2014 was accomplished at the State Fairgrounds facility in 2013. Lincoln is...folks at the Lincoln Race Course are fully aware that in order for the commission to give any consideration to the simulcasting license for 2015, there's going to have to be a race...at least a minimum of one Nebraska-bred race at that facility in 2014. I do know that they have plans that I've seen, as has the commission has seen, relative to the development and construction of that racetrack itself. Like in anything else, any other industry, it's a question of money and finances to be able to put that facility together. As Commissioner Galyen indicated, we're essentially an entertainment industry. And it's a little difficult to compete, as we saw with the demise of Ak-Sar-Ben, with the instant gratification of slot machines across the river and the table games that they have at the casinos there. That having been said, Horsemen's Park has been very successful both in its live meet, simulcasting. Fonner Park this year, since they began racing in mid-February, has seen an increase in crowds. Handle is a little better than what it was last year. You know, one of the big issues that from my standpoint, not as a commissioner but as just an interested member of the public and the racing industry, is something that we at the commission have been trying to battle for several years. And that's...and Fonner Park is probably the racetrack that has to address this, that sees the biggest negative impact, and it's on-line wagering. On-line wagering in Nebraska of course is illegal, but there are companies that are offshore--some are not, some are within the confines of the United States--who you can be in your office, you can be in your home, you can set up an account and you can watch the races. They can pull it off the signal and watch the races and wager on them. You know, last year or the year before, one of the administration people at Fonner Park did some calculations of what they were missing in this equation. And it's not just Fonner. It's the horsemen. It's the track. It's the state by the time you factor in the pari-mutuel tax. And it was in the several hundreds of thousands of dollars. The commission sent letters to each of those companies and have essentially requested an agreement that they will not allow accounts of Nebraska residents to be opened. That was somewhat successful. I use the term "somewhat" because I know there's at least one, possibly two companies that any of you here could go back to your office, log in, create an account, put your Nebraska zip code in, and fund your account

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with \$50 and you're ready to go. We requested the Attorney General's assistance because I think coming from the Racing Commission on state letterhead certainly...hopefully would get some attention just like a letter coming from the Legislature. But obviously in those one or two instances, we took a swing of the bat and we missed. And we've asked the Attorney General for some assistance simply in sending a letter to those entities requesting that they no longer allow Nebraska residents to open accounts and to wager. And at this point we haven't had any success with the Attorney General's getting involved at that level. So we believe that as best as we can at the commission level, we've tried to address it. We've had moderate success, but it continues. And so not only do our racetracks, our horsemen, our breeders, and our industry have to deal with the gambling on our borders, but there's also a certain segment of the population that enjoys wagering on horse races that do some of their wagering, if not all, on-line. [CONFIRMATION]

SENATOR KARPISEK: As I recall, this committee put out a bill to make that a felony and it blew up on the floor. [CONFIRMATION]

DENNIS LEE: It did. I remember coming down to testify in support of it, which is one of the rare times I've testified in support of any bill because I'm usually in a neutral capacity. [CONFIRMATION]

SENATOR KARPISEK: Senator Bloomfield. [CONFIRMATION]

SENATOR BLOOMFIELD: Thank you. With the live race requirement here in Lincoln, are there any stipulations on there? Can they bring in two old plug horses and have them walk 50 feet and call it a race? [CONFIRMATION]

DENNIS LEE: Well, it could be a walkover. But I think what we've done in the past with Ak-Sar-Ben when Ak-Sar-Ben closed and Horsemen's opened and we had to address the time constraints there of the construction of the facility, I would suspect that the commission would have the same requirements for Lincoln that we've had in the past for the Ak-Sar-Ben--Horsemen situation. To answer your question, could you have one horse? That would be a walkover. Could you have two? You still have to wager pari-mutuel on it in order for it to be an authorized race. I think a lot of it, Senator, would depend upon how successful the Lincoln folks are in developing their racetrack, the physical construction of it, because it isn't just the construction of the dirt and rails. We still have to have photo finish. We still have to have stewards and a test barn and do post-race testing. And there still has to be mutuels, a mutuel handle on it. So I would anticipate as we look down the road to that future issue with regard to a race in 2014 in order to open the door for simulcasting at Lincoln Race Course in 2015 that the commission will probably be consistent in having the same requirements there that we had in the past. I know Hastings, for example. Hastings runs two quarter horse races a year. They're full fields. And I should define full: six horses or more in their quarter horse

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aces. They have a little nucleus in the central Nebraska, Adams County area of folks that enjoy wagering on quarter horses. Of course a lot of those horses will come up from Kansas and Oklahoma by definition. But I would suspect, back to your question, we'd have the same requirement for Lincoln that we've had in the past.

[CONFIRMATION]

SENATOR BLOOMFIELD: Okay, thank you. [CONFIRMATION]

SENATOR KARPISEK: Any other questions? Seeing none, thank you.

[CONFIRMATION]

DENNIS LEE: Thank you for giving me the opportunity to appear. [CONFIRMATION]

SENATOR KARPISEK: Is there anyone here in support of Mr. Lee? Anyone in opposition? Anyone neutral? Seeing none, that will close our hearings for the day.

[CONFIRMATION]