

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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COMMITTEE ON GENERAL AFFAIRS
February 14, 2005
LB 201, 573, 599, 745

The Committee on General Affairs met at 1:30 p.m. on Monday, February 14, 2005, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 201, LB 573, LB 599, and LB 745. Senators present: Ray Janssen, Chairperson; Deb Fischer, Vice Chairperson; Matt Connealy; Abbie Cornett; Philip Erdman; Mike Friend; David Landis; and Roger Wehrbein. Senators absent: None.

SENATOR JANSSEN: Welcome to the Committee on General Affairs. We are going to hear one, two, three, four bills this afternoon. Before we start I'd like to introduce the committee members to you all. To my far right is Senator Friend from Omaha, and to his left is Senator Erdman, and to his left is Senator Landis, and to his left is the Vice Chair of the committee, Senator Fischer. To my extreme left is Senator Abbie Cornett from Bellevue, on her right is Senator Roger Wehrbein from Plattsmouth, and to his right is Senator Matt Connealy from Decatur. On my immediate left is Brittany Sill, the clerk for the committee, and Laurie Lage is on my right; she is counsel for the General Affairs Committee. Our page today is Brad. My name, for the record, is Ray Janssen and I'm from Dodge County. We will hear four bills this afternoon, and Senator Cudaback is here to introduce to you LB 201. How many testifiers do we have on LB 201? One, two. How about LB 573? One, two. We're doing pretty good. LB 599? Oh, oh, that took it there. One, two, three, four, five. And LB 745? One, two, three, four, five. Okay. Senator Cudaback, you are ready to roll. Let's hear all about what you want to do to the electrical code for 2005.

LB 201

SENATOR CUDABACK: It's a very simple bill, so we'll get right at it. Honorable Chair of the General Affairs Committee and members, I'm State Senator Jim Cudaback. I represent the 36th District. I'm here this afternoon to introduce LB 201. I'm here about three years for the same purpose. This is an update of a national code and what it is does is, according to Nebraska statute 81-2104, the State Electrical Board shall be governed by the minimum standards

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set forth in the National Electric Code issued and adopted by the National Fire Protection Agency. Since the national code is revised every three years, Nebraska law must be updated with the revised code every three years, as well. LB 201 updates the National Electric Code to reflect the latest revision of the National Electric Code. And as many of you know, we can go over but we can't go under. And this simply puts us in line with the national code and we adopt it, we go on for three years, and then they come back with revisions and we do it again. I think this is my fourth or fifth one I've done of these in the last, well, 15 years, I guess. That seems like a long time, but...

SENATOR JANSSEN: That's why you are so good at it, Senator Cudaback.

SENATOR CUDABACK: ...that's about the way it is.

SENATOR WEHRBEIN: Are you an electrician?

SENATOR CUDABACK: Huh?

SENATOR WEHRBEIN: Are you an electrician?

SENATOR CUDABACK: Am I a licensed electrician?

SENATOR WEHRBEIN: (Laugh)

SENATOR CUDABACK: No. I am an electrician, yes, and my father was, and my brother is, and do I wire my own house? Yes.

SENATOR JANSSEN: Senator Cudaback?

SENATOR CUDABACK: But I made my own law and now I can't wire my apartment building, so.

SENATOR JANSSEN: Senator Cudaback, is that what you were doing? You were stringing wires when you fell off your house this last fall?

SENATOR CUDABACK: Next question? (Laughter)

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

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SENATOR CUDABACK: Thank you.

SENATOR JANSSEN: Oh, I might tell you all testifiers, there are sign-up sheets in the back. Have those filled out and drop them in the box if you're going to testify. Thanks, Jim. Are you going to stay around to close?

SENATOR CUDABACK: Thank you. I will not close.

SENATOR JANSSEN: All right, thank you.

SENATOR CUDABACK: Unless you insist.

SENATOR JANSSEN: All right. Our lone testifier. And I would imagine you are a proponent, is that correct?

TED STUTHEIT: Happy Valentine's Day, Senator Janssen and members of the committee. My name is Ted Stutheit. I'm the executive director for the State Electrical Board. I'm here as a proponent for this adoption. The reason for it is to keep us up-to-date and current with what national code is. If anybody has any questions, I will be more than happy to answer them but I think that probably says it all.

SENATOR JANSSEN: All right. Any questions? Senator Wehrbein.

SENATOR WEHRBEIN: Do we have any surprises? Changes that it is going to impact Nebraska?

TED STUTHEIT: Well, you know, Senator, every three years that book has had in about the last five code cycles somewhere in the vicinity of 1,700 changes. As far as I can tell from studying what I've seen, there aren't any surprises. There are things that are more strict. There are a couple of things that would seemingly be less so. There are some issues that some people are choosing to look at as possibly being something to worry about. But I have spoken with board members and electrical contractors and my chief inspector, and none of us can see anything that looks like it should be a surprise.

SENATOR WEHRBEIN: Thank you. That's all I need to know.

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TED STUTHEIT: Sir.

SENATOR JANSSEN: Any other questions? Ted, do you still have the same amount of inspectors?

TED STUTHEIT: There is 15. Yes, sir.

SENATOR JANSSEN: Fifteen. Is that adequate?

TED STUTHEIT: No. And never will be.

SENATOR JANSSEN: I see. Has it been increased the past few years?

TED STUTHEIT: No, not in the past few years.

SENATOR JANSSEN: Okay. When was the last time it was...?

TED STUTHEIT: The last time it was increased, Terry Carlson was the director and it must be about five years ago or so.

SENATOR JANSSEN: Okay.

TED STUTHEIT: There were 13 and he increased it to 15. With the volume of work that we're picking up in this end of the state down here, we could do with a couple more very easily.

SENATOR JANSSEN: Um-hum. What is the average length of time that someone who has done remodeling or new existing buildings? What is the length of time they have to wait to get an inspector?

TED STUTHEIT: In the heavily populated areas such as Sarpy County, I have heard, depending on who you talk to, anywhere from a week to two weeks to I heard one fellow that was really upset and I don't know if it's true or not, but he said seven weeks. I can't believe that it's a seven-week wait. We're mandated by state law to make inspections within a week of the request. And insofar as it's possible, we do that with the staff that we've got. Now, outstate in other areas where there is less construction, there is a whole lot less trouble getting to the rough-in inspections. We're not holding up construction there. But in places that it is densely populated, yeah, it's kind of a problem.

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SENATOR JANSSEN: Okay. Thank you. Any other questions? Seeing none, thank you for being here today, Ted.

TED STUTHEIT: Senator.

SENATOR JANSSEN: Any other proponents? Any opponents? Seeing none, Senator Cudaback waived closing so we'll go to the next bill. LB 573, Senator Pedersen here. Don't see him so we'll stand at ease for a little bit.

AT EASE

SENATOR JANSSEN: It is all yours, Senator.

LB 573

SENATOR Dw. PEDERSEN: Thank you, Senator Janssen and members of the General Affairs Committee. I am here today to introduce to you LB 753 (sic--573). For the record, my name is Dwite Pedersen. I represent the 39th Legislative District. This bill was brought to me on behalf of the State Racing Commission. It reflects an agreement made by the Nebraska racetracks, horsemen, and breeders to provide an additional revenue to the Racing Commission. First of all, this bill increases the funding currently provided for the Racing Commission from four-tenths of one percent of the gross wagers to sixty-four hundredths of one percent of the gross sum wagered by the parimutuel method at each licensed racetrack during he calendar year. In addition to the increase in funding taken from the gross sum wagered, the bill permits racetracks to increase the total amount withheld from exotic wagers, that is those bets that are anything other than win, place, or show, such as exactas and trifectas, from the current 24 percent to 25 percent. This increase in funding is necessary to cover projected shortfall of approximately \$100,000 in expenses for the current fiscal year and projections for the future. It will allow the commission to drop a salary reimbursement furnished by the racetracks for the state steward, official veterinarian, and test barn assistants in the amount of \$600 per race day. The bill will also provide funding so that the Racing Commission, rather than the racetracks, can perform drug testing of horses. This increase in funding

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will allow the racing commission to provide a drug testing level consistent with current nationally recommended regulations and further discourage the use of illegal drugs and medications in the horses. In addition, the bill increases the disciplinary authority of the Racing Commission from the current maximum fine of \$1,000 to a maximum of \$5,000, and authorizes the board of stewards to invoke a maximum fine of \$1,500. During the negotiations prior to introduction of this legislation, discussions were held regarding making some changes in the statutory provisions relating to Nebraska-bred horses. At the time of the introduction of this bill, all parties had not agreed, but it is my understanding that an agreement has been reached in the meantime and is outlined in the amendment that has been given to you. I urge the committee to attach it to this bill so that this problem could be taken care of, as well. I am sure that someone following me will give a better explanation of the amendment, but I wanted to let you know that it has been prepared and I am in support. Having worked in the racing industry myself for the last 15 years, I think this is an extraordinary opportunity to increase much needed funding for the Racing Commission. And just the idea alone that all stakeholders, racetracks, horsemen, and breeders have agreed on anything could be a signal that this is good legislation. I urge you to send this to the floor. If there are any questions, I would try and answer them for you. Thank you.

SENATOR JANSSEN: Any questions? Dwite, who does the testing now? Do the breeders do the testing now?

SENATOR Dw. PEDERSEN: No, the Racing Commission does the testing.

SENATOR JANSSEN: All right. Okay. And what did you say you're going to raise that 25 percent? The cost here is 25 percent?

SENATOR Dw. PEDERSEN: Well, part of that money comes out of the \$600...is it \$600 a day? This is not the area of the racing that I work in so I have to look at these numbers.

SENATOR JANSSEN: Maybe somebody behind you can answer that, Senator.

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SENATOR Dw. PEDERSEN: Six hundred dollars per race day that the tracks have been paying to cover that will also be covered in this money now that's coming out of the wagering. The racetracks have been kicking \$600 just over and above to pay for the testing, the test barn people, the state vet, and the state steward.

SENATOR JANSSEN: Okay. Any questions? Thank you, Senator. Are you going to stick around and close?

SENATOR Dw. PEDERSEN: I will not be closing. I've got another obligation in whatever other committee I'm in there--Transportation and Telecommunications Committee. (Laughter)

SENATOR CONNEALY: Got somebody to lead you there? (Laughter)

SENATOR Dw. PEDERSEN: Too many things going on.

SENATOR JANSSEN: Just down to the corner and take a left and then another left.

SENATOR Dw. PEDERSEN: It's down the corner and around.

SENATOR JANSSEN: All right. Thank you.

SENATOR Dw. PEDERSEN: Thank you very much.

SENATOR JANSSEN: Proponents, please.

LYNN SCHULLER: (Exhibit 1) Good afternoon, Chairman Janssen and members of the committee. My name is Lynn Schuller, S-c-h-u-l-l-e-r. I am the executive director of the Horsemen's Benevolent and Protective Association. The Racing Commission initially came to several interested parties and let them know that they were quickly reaching a crisis situation when it came to budgeting for enforcement and administration for the racing industry. So we all got together; the HBPA board, all five racetracks, the Racing Commission, and the Nebraska horse breeders all met in early January and had a discussion about the dilemma that we were facing. If you read the bill, you're probably curious as to why HBPA is a proponent of this bill because it increases fines against the horsemen, as well as takes more revenue

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out of our revenue stream. But quite frankly, it's our responsibility to do that. It's not the responsibility of the general fund to pay for administration of horse racing. It's the horse racing's responsibility, which is why we're here. Their current allocation was four-tenths of one hundred for a take out. They had requested five-tenths to cover the cost of administration. What had been happening is, this is not an increase of their administrative costs. These are the administrative costs that they've incurred all along but they had some reserve money to cover the shortfall that they had. That revenue reserve fund is now depleted, so there is no more money to do that. So they had come to ask for five-tenths. At the end of the meeting, the reason it rose to .64 tenths is because what had been happening was the Racing Commission does all of the testing to detect illegal substances in racehorses on race day. They had then been going back to the racetracks to ask them to reimburse for the cost of that testing. We thought it was more appropriate since the Racing Commission should have authority over testing, that they also the authority to pay for it themselves rather than, for lack of a better term, go begging back to the racetrack to have them pay for it. That was why we voluntarily offered to increase the take-out from four-tenths to sixty-four hundredths. Also, as to the \$600 a day, that's the reason that we also increased the take-out on exotic wagering from 24 up to 25. Not every track charges up to 24 percent now, but they have that option if they need more administrative money to conduct live racing. I'm not sure how much you know about racing, but live race days are extremely expensive to administer for those racetracks. And Fonner Park, especially now, has been having some tough times with their cash flow, so we wanted to do whatever we could to help them out. The amendment that's in front of you was not ready to go when the main bill was submitted which is why we're asking that the committee attach it as an amendment, but it is important. Hastings last year ran their first live race day for quarter horses in quite some time. The problem with that is that it's state law right now that for every live race day you have you must have a Nebraska-bred race. That means that one of the races on your card that day has to be only for Nebraska-bred horses and there is a registry in the state so that you can prove that your horse is a Nebraska-bred horse and it encourages the agricultural arm of horse racing,

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which is horse breeding and that type of thing. It's problematic for the quarter horse industry because it's been inactive for so long that they no longer have a quarter horse registry where they can prove that they have Nebraska-bred quarter horses. Therefore, last year, they were faced with they could find one quarter horse that they could prove had lineage in the state, and so they had to basically walk that horse across the finish line in order to satisfy the requirement for a Nebraska-bred race. This would put a moratorium on that requirement only for quarter horse races for three years because a horse has to be three years old before they are really in shape to race. If you'll notice, it automatically has a sunset provision in it so that after three years this requirement will go back in so that they will then have to Nebraska-bred races. But at that time, hopefully their registry will be sufficient so that they have more than enough horses to fill the race for the card that day. If there are any questions, I would be happy to answer them.

SENATOR JANSSEN: Any questions? Seeing none, thank you, Lynn.

LYNN SCHULLER: Thank you.

SENATOR JANSSEN: Did you say at .64 tenths?

LYNN SCHULLER: Yes. It was .4.

SENATOR JANSSEN: Point 4.

LYNN SCHULLER: Yes.

SENATOR JANSSEN: Okay. Will that be adequate?

LYNN SCHULLER: I'm...the Racing Commission is going to be testifying, but they assured us that that will be plenty of money for them to do what they need to do and also a little bit of extra money so that they can increase testing. We've had some concerns with some overages on some drug readings, so they requested that we do more testing to keep the playing field fair, and we thought that was a good idea. So there is a little bit of extra money in there for extra drug testing.

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SENATOR JANSSEN: Okay. Any other questions? Thank you, Lynn.

LYNN SCHULLER: Thanks.

SENATOR JANSSEN: Next proponent, please?

DENNIS OELSCHLAGER: Senator Janssen, members of the General Affairs Committee, my name is Denny Oelschlager and I'm with the Nebraska Racing Commission. I serve as their executive secretary. Senator Pedersen has introduced and covered many of the points that I might cover so I will be brief in terms of my testimony and respond to any questions you have. Probably one of the first is, how did we get into a situation of being approximately \$100,000 a year short in the current fiscal year and additional amounts projected in FY '06-07. The basic reason is that our primary source of revenue is the deduction from parimutuel wagering. And for five years, from 1999 to 2003, in actual dollar terms our statewide handle remained essentially very flat--\$112 million or \$113 million a year. In 2004, it actually dropped about 5 percent to \$107 million a year. The number of races we ran during that period of time has remained relatively constant--103 to 105, 106 days of live racing per year. And so as a result of that, incrementally, due to inflation, insurance costs, personnel costs, and so forth, the revenues we were generating five or six years ago are no longer sufficient to cover that because we get a flat amount based on a parimutuel handle which has not been changing. Statewide, we handle, as I mentioned, \$107 million at this point in time. We had asked the industry to deal with that deficit by giving us an extra one-tenth of one percent. Based on that handle, that generates approximately \$100,000, and that's about where we're at in terms of our deficit right now. The additional amounts, six one-hundredths percent, as was mentioned, simply is revenue neutral to us. It takes it off of the racetracks' bottom line. It moves it up to the front end, the parimutuel handle, and the effect is that it's shared by the entire industry and not just the racetracks. The drug testing has currently been at about \$60,000 a year. We discussed the current testing situation with the industry. They agreed to about a 35 percent increase in funding of drug testing, which allows us to do some additional testing that's designed to reduce the number of not really serious

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violations, but raceday medication violations in excess of allowed levels that we've been encountering the last couple years. Our commission history is that in fiscal year 2003, we had a \$43,000 deficit; fiscal year 2004, \$54,000 deficit. As I mentioned, this year it is going to run about \$100,000; projected out to '06 and '07, about \$140,000 a year. And that was highlighted in our budget request that we made in September of last year. With reference to the amendment for the quarter horse, that was really worked out within the industry or the Nebraska-bred races, and we're supportive of it, particularly since the industry has come to an agreement on that. So, with that, I'd be happy to answer any questions that the committee might have.

SENATOR JANSSEN: Any questions of Mr. Oelschlager? Senator Wehrbein.

SENATOR WEHRBEIN: Will this get you out of the hole then, the past hole?

DENNIS OELSCHLAGER: Actually, no. We're still going to be tightening our belt. As I mentioned, one-tenth that we had asked for is essentially \$100,000, and that's our projected deficit right now; that's a projected increase. The drug testing at eight-tenths of one percent is not quite going to cover the testing program we have now. It comes within \$8,000 or \$10,000. So we're looking to tighten our belt in addition to this. The six-tenths of one percent was strictly revenue neutral. It was moving it from what the tracks paid to what is paid out of parimutuel wagering. So this is not something that is throwing us any extra funds other than the increase for drug testing, which the industry was agreeable to. And we plan to tighten our belt in addition to this.

SENATOR WEHRBEIN: You're still saying 105 days of racing?

DENNIS OELSCHLAGER: I believe we're scheduled for 107 this year. Right.

SENATOR WEHRBEIN: You started, what, today? Last week? When did you start, last week?

DENNIS OELSCHLAGER: We started last week, yeah. A very good start. We have more horses this year than the last

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couple, and the last couple we've had a better horse population than the years before that. So there certainly is a place and demand for the industry in the state yet.

SENATOR JANSSEN: Any other questions? Can...does the amount of revenue that this will generate, does that go on how many horses you have then and how long the season is, or does that make any difference?

DENNIS OELSCHLAGER: Yeah, sure. One of our primary cost factors is the number of live race days that we have and the number of locations where we actually have to physically have to move our operation and set up. And actually over the same period of time, we have gone from four locations to six locations. So we not only have maintained a number of race days or increased them slightly, but we have also increased the number of locations that we're at. We've reopened at South Sioux City about three years ago, and after a fairly steady reopening they've done pretty well up there. They were up, I believe, 50-some percent last year--a pretty small slice of the total pie, but it made a positive impact once they started doing better.

SENATOR JANSSEN: Good. Any other questions? Would you spell your last name for the record, please?

DENNIS OELSCHLAGER: Sure. O-e-l-s-c-h-l-a-g-e-r.

SENATOR JANSSEN: All right. Thank you. Any other proponents? Any more proponents? Any opponents? Anyone in a neutral capacity? Senator Pedersen waives closing on LB 573. Senator Pedersen transposed those numbers but we are on LB 573. Seeing no other testifiers, that will conclude the hearing on LB 573. Senator Louden is here to tell us all about LB 599.

LB 599

SENATOR LOUDEN: (Exhibit 2) Good afternoon, Senator Janssen and members of the General Affairs Committee. My name is LeRoy Louden; that's spelled L-o-u-d-e-n, and I represent the 49th Legislative District. LB 599 was brought to me by the League of Nebraska Municipalities. The league has a representative here today who will provide additional

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LB 599

information on LB 599. I agreed to introduce LB 599 because it is difficult for small towns and villages to find enough people to fill public offices. Sometimes there are people who are willing to serve but they cannot fulfill all the duties required by serving. A small town in the district I represent could find people to serve on the library board, but those people didn't want to fulfill the board duties for the openings. The village paid the bills and was responsible for the other needs of the library. LB 599 would allow village boards to fulfill the open meeting regulations and then provide for an advisory board to advise the village board on library matters. As I said, there are others here today I think from the League of Municipalities and also Peggy Sheldon, the city administrator from Hemingford was the one that brought this to my attention and she'll also testify later on afterwards. And I'm pleased that she could join us today, as this little paper I put around there, this is something that would increase the options for the cities of the second class and villages for governing libraries. The city council or village board, they could appoint a library board or they can retain control of the library and appoint an advisory board. At the present time, the library board has to have open meeting laws, and that's been some of the problems in some of the smaller towns. It would give the smaller cities and villages the same authority that larger cities already have. And with that, we would hope that you could advance this and if there's any questions I'll be pleased to try to answer them, but for most of the questions I will defer to the representative from the League of Municipalities.

SENATOR JANSSEN: Any questions? I have one, Senator Louden. I have received some phone calls over the weekend, and some of these people were a little upset with this bill. And I said, well, I said we're going to have a hearing on it tomorrow and I'm sure we'll hear your complaints. One of the remarks was, well, why can't we just leave it the way it is, you know? We're getting along fine in our town or city, why do we want to do this? But this does give them the option, is that correct?

SENATOR LOUDEN: That's the idea of it was to give options for those small villages and towns that have trouble finding people that want to serve on the board and go to the trouble of the open meeting laws and the whole bit. You can

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probably find people that would be willing to take an interest in the library. They could still be on there, but they would be considered an advisory board and they wouldn't necessarily have to comply with the open meeting laws. Trying to smooth things up for folks in smaller areas.

SENATOR JANSSEN: Does that seem to be the main problem with the open meetings law?

SENATOR LOUDEN: I...that was what was brought to me. I'm not familiar with it where the small...the town I live in is a lot smaller than a library size, and we're doing good to hold our bowling alley. (Laugh)

SENATOR JANSSEN: Well, you're lucky you got a bowling alley.

SENATOR LOUDEN: Yeah, we got a bowling alley. And we have trouble finding people to serve on that, too. It would be the same thing, you know, people that are interested will serve on them and people that...and if you have to have some of the...it's too much paperwork and too much to do, why they won't go to the problem. This is just an option. It isn't anything that's mandatory. And I know I've had some e-mail from people from libraries; they swore up and down we were going to close their libraries, you know. And doesn't have a thing about it in the bill. It is just strictly something that can be done if there is no other solution.

SENATOR JANSSEN: Okay, and maybe you guys out in the western part of the state are a little too rough on the pin setters, that's why...(laugh)...

SENATOR LOUDEN: We've got automatic.

SENATOR JANSSEN: (Laugh) Good for you. Any other questions? Thank you, Senator Louden. Proponents, please?

GARY KRUMLAND: Senator Janssen, members of the committee, my name is Gary Krumland, spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing in support of LB 599. As Senator Louden mentioned, and we do appreciate his introducing the bill for us, is that LB 599 does give cities of the second class and villages an additional option for governing libraries.

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LB 599

Under current law, and this is in Chapter 51, Article 2: Cities, villages, counties, and townships appoint a library board to run the library, and they have a lot of responsibility. They are responsible for staffing; they control the property. And so it is a significant appointment, demanding both in time and effort. Cities of the first class, and these are larger cities--cities between 5,000 and 100,000--have a statute that gives them authority to operate the library themselves for the city council and those cities have that authority to do so, although it's my understanding most of them do appoint the library board. So what LB 599 does is give that same authority to the smaller cities. Cities of the second class are those between 800 and 5,000; villages are cities with a population below 800. The bill is drafted so that the intent of the bill is that the first preference is that you appoint a library board. But in those situations where that is difficult or there is a problem to do so, then the city council or village board can retain governance, and they do have authority to appoint an advisory committee. So the authority in LB 599 is very similar to that, that first-class cities already have. And as Senator Loudon mentioned, we've been hearing from a lot of the smaller communities that they are just having problems finding people willing to serve, especially on the library board with the responsibility that the library board has. I've been told that there are apparently are approximately 50 communities out there that right now are out of compliance with the law. They still want to maintain the library but they just don't have people to appoint, so they're operating the library maybe without the full-blown library board. We think this bill, though, it simply gives second-class cities and villages an option to govern the library board. And if they are having a hard time finding people to serve, the governing body can retain that control so that they can maintain a library. I have been asked, won't everybody change suddenly if they have this authority? And I don't have an answer for that, but I know cities of the first class have had this authority for a long time to have the option, and they all haven't changed. A couple of them do run libraries under what LB 599 would give, but I think most of them do have a library board. And I've also heard, as apparently I'm assuming you all have, that the cities and villages are just going to use this to cut back on libraries and shut that down. And that's not the intent of this bill and the people who serve on city councils,

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village boards, are elected and they have to answer to the people, so I think if they did something that the citizens did not like, shut down the library, they would hear about it at the election time if not well before. And I do have a letter from the city of Springfield that I would like to pass out. (Exhibit 3)

SENATOR JANSSEN: Any questions? Senator Wehrbein.

SENATOR WEHRBEIN: You said this shows preference for a library board.

GARY KRUMLAND: Well,...

SENATOR WEHRBEIN: How do you interpret that?

GARY KRUMLAND: Well, the intent

SENATOR WEHRBEIN: I can't quite see that.

GARY KRUMLAND: And maybe it's not drafted real well. The intent...on subsection 2, line 7, it says if the city does not establish a library board, then they have this option. I mean, the idea is that...

SENATOR WEHRBEIN: Okay. It's just listed first (inaudible).

GARY KRUMLAND: Yeah. Well, yeah. The intent is so that yeah, that's the first choice, but if you don't do that one then here's the second option.

SENATOR WEHRBEIN: I guess I'll wait and hear the rest of the bill. If it is...I would agree that that should be the preference and I wonder if there ought to be something in there, because I was also wondering, being how there tends to be squabbles...I was going to say small town, but there's squabbles in all towns, but...

GARY KRUMLAND: Yeah.

SENATOR WEHRBEIN: If there was a serious disagreement between a library board and village board at this level, they could...and it might be over books. I mean, I've heard of those kind of things. If they could simply wipe out a

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village library and...can we stop that in any way?

GARY KRUMLAND: I...

SENATOR WEHRBEIN: Or should we? And maybe you don't want to answer that.

GARY KRUMLAND: Well, I don't know...

SENATOR WEHRBEIN: You don't have to answer that, but...

GARY KRUMLAND: Well, I will just tell you that it must have been about 15 years ago, I think it might have been in Plattsmouth, there was a disagreement between the library board and the city. And it got to the point where I think the city council just removed everybody on the library board. And it went to court, and the court said, the library board does have authority over the library but the city ultimately is responsible and they have the authority to remove the members of the library board. Now, I hope we would never get to that point again and I hope that doesn't happen; that's not the intent of this. But it does happen and even under the current law that could happen.

SENATOR WEHRBEIN: Thanks.

SENATOR JANSSEN: Gary, are those library board members, are they appointed or are they elected?

GARY KRUMLAND: They are...under the law, the city council can set it up either way. I would guess...I don't know of any that are elected. I would guess most of them are appointed. I don't know; maybe the Library Commission knows.

SENATOR JANSSEN: Yeah, and Senator Wehrbein's question: I think this could be what people are thinking. You know, they want...it might be an easy way to get rid of a library board that's been there for a long, long time because, as you know, in most small towns you get a board like that, you're there for life if you choose to be so. And city councils change or village boards change from time to time, and they may have some disagreements. So I worry about that and the phone calls I've had have stressed that also. So food for thought.

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GARY KRUMLAND: It's not the intent to do that, but...

SENATOR JANSSEN: I realize that; um-hum.

GARY KRUMLAND: ...I suppose it could happen and there are disagreements between the governing body and the library boards, I agree.

SENATOR JANSSEN: Senator Fischer.

SENATOR FISCHER: Thank you, Senator Janssen. I realize that Senator Louden introduced this bill on behalf of the League of Municipalities. Where did the idea come within the league, though? Was it from cities or villages or who had the idea?

GARY KRUMLAND: It came from a village, and specifically it came from the village of Hemingford, and someone is here from there who will explain their situation. But it went through committees and it was something that, once it was brought forward, representatives from villages said, boy, this would really help us, and so it had support.

SENATOR FISCHER: Okay, thank you.

SENATOR JANSSEN: Senator Erdman.

SENATOR ERDMAN: Thank you, Senator Janssen. Gary, it's a one-time deal. You can organize one way or you can organize another way. There's no provision written in here that says that you can change after the establishment of the process you're going to use. Is that a concern? Should there be...?

GARY KRUMLAND: Yeah. That was not the intent; it was probably just poor drafting on our part. It probably should be something that you could change so if you decide to go back to a library board, if you change, or, you know...to give the authority to the governing body to make that decision.

SENATOR ERDMAN: Okay.

GARY KRUMLAND: And if we do need language to specifically

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state that the preference is that you would create a library board, that was the intent, maybe we would make that clearer.

SENATOR ERDMAN: I guess as I read it, it would say that you can either establish the library board or you, as the city, can deal with it with an advisory, but there's nothing in here that would permit that transfer, but I was just making sure I was reading it the same.

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

GARY KRUMLAND: Um-hum.

SENATOR JANSSEN: Next proponent?

MARGARET SHELDON: Senator Janssen and committee members, I thank you for the opportunity to address you. My name is Margaret Sheldon, also known as Peggy Sheldon. My last name is S-h-e-l-d-o-n. And this has been something that I've talked to my peers about for years. And I assure you that some of the concerns that you have, my knowledge of how the library board works, this shouldn't put any more risk toward the library than is there already. I believe that a governing board is appointed by the city council or village board, as well as an advisory board. And they're appointed annually so some of them have terms where they maybe have a three-year term or a two-year term or something like that, but the risk of not being reappointed would be the same, no matter what type of board that you have. Hemingford is a small town in western Nebraska--993 people. Big enough to be a second-class city; we're a village by choice. We have lots of wonderful volunteers for many things, but when you go to fill the boards, I think if you check with most towns, we have vacancies. We just have a hard time finding people that have the time or the expertise, they believe, to serve on these boards. I have to tell you that a few years ago I became aware of the 51 statutes that tell about the governing board that our library is supposed to have. We have never appointed a governing board. Our library board primarily has been made up of senior ladies. If you read the trustees handbook on the Library Commission's homepage or listen to the presentations that they make, they would like to see us have a library board that's diverse in

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gender, diverse in age. I'd love to have one like that, too, but the reality of filling that board is not very well. As far as the public meeting laws go, we have always advertised the meetings, seen that the minutes get put in the paper like they're supposed to be so that they're in compliance with the open meeting law. And we also see to it that the librarian has a personnel handbook and that our librarian has some of the fringe benefits that other city employees have. Our librarian, as far as we're concerned, they're another department of village and we treat her as one of the team of the whole village. We interact, help. You know, I send the utilities guys down to put shelves together if we need to, or whatever. But we don't micromanage the library. Pretty much I hear from the librarian when she has needs. We try to fulfill those needs. I've been in my position for 18 years as administrator/clerk-treasurer. We've always been proactive. You know, since I've been there we've completely redone the building. We carpet; we put in air conditioning, heat; we give them \$2,000 every year for some special capital project that they want to upgrade things. So I feel like we're very pro-library. I have had a couple of elected officials that maybe weren't pro-library over the 18 years and it wouldn't have mattered whether they were the governing board or the advisory board. They probably were at risk when those elected officials were seated because they weren't real sure a small town needed a library. And I don't know what you do to protect the library from that; I really don't. Before I went to the league with this on the legislative committee, I talked to a number of my peers. And the reason this bill is drafted the way it is, is because we want them to have a choice. Some of my peers have governing boards. They have people with doctorates; they have people who understand the laws of personnel management, so they have a wonderful governing board. And I would love to see them continue on just like they're doing now because they're doing wonderful. I also learned that, I think it was referred to as spats, it doesn't matter whether they're governing or advisory. They have spats. Some of the communities have some real conflict between the elected officials and the appointed officials. And I don't know that governing or advisory is going to change that. I think right now if the ladies that I have that have served, there are some of them that don't want the responsibility of personnel management. They don't want the responsibility of looking at the insurance and seeing that

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the meetings are published. After the Library Commission addressed us here, oh, in the last six, eight months, we tried to turn...you know, make them more responsible. A good example is, two weeks ago a library board chairman came in and said, we failed to get our meeting in the newspaper; is it okay if we just go ahead and meet anyway? Well, the answer to that is no, obviously, because that's an illegal open meeting. And they look to us to do what we do. You know, I have the privilege of being educated about open meeting laws, about personnel management, so I'm there or the elected officials are there for the library board to call on. As far as for running the operations of the library, the library board does that. And I know it's not that way in every community. I don't know how to protect the ones that don't have support for their library. But all I'm asking is that...I have a copy of Section 16-251, which is state statute, which the first-class cities have the privilege of choosing which they have--governing or advisory. And if there is anybody that can see the library board that's governing, it would probably be the first-class cities. They have the people to do that. We don't have the people to do that. We don't want to operate out of compliance with state statute. We'd like to have state statute be something that we can do or can accomplish. And I'd sure answer any questions that anybody has. (Exhibit 4)

SENATOR JANSSEN: Any questions of Margaret? Seeing none, thank you for being with us today. Next proponent. Any more proponents? Anyone...let's see, any opponents?

ROD WAGNER: (Exhibits 5, 6, 7, and 8) I have some handouts, Senator.

SENATOR JANSSEN: Sure. The page will get them for you.

ROD WAGNER: Senator Janssen, members of the General Affairs Committee, good afternoon. I am Rod Wagner, director of the Nebraska Library Commission, spelled Rod, R-o-d, Wagner, W-a-g-n-e-r. I represent, this afternoon, the Nebraska Library Commission. The Nebraska Library Commission opposes LB 599 and I would like to talk with you a bit to point out some thoughts and concerns that we have about the governing situation with Nebraska public library boards. Of the documents that have been passed around, I wanted to note that there are individual letters from Wally Seiler from

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Alliance. Wally is a former Library Commission member and former chair of the Library Commission, and he has also many years of experience as a public library board member in Alliance. There is also a letter from Mary Nelson. Mary is a current member of the Nebraska Library Commission; one of our six commission members. And Mary has served as a public library trustee in Holdrege for a number of years. Both have lots of perspective and experience working with library boards. A couple of facts that I'd like to note. First of all, this bill, LB 599, affects nearly 90 percent of Nebraska public libraries because, obviously, and we all know this, many of our towns and villages are under 5,000 population. And many of those towns and villages have libraries. There was a point made earlier about the authority that library boards have and how they are either elected or appointed. Ralston is the only community in Nebraska that has an elected library board; the rest are appointed. It's also been noted that first-class cities do have the allowance to have either an administrative governing board or an advisory board. The difference that I would note, in comparison to first-class cities, is that first-class cities, larger cities in Nebraska, do have full-time professional library staff. They also have full-time administrative staff in their cities. Smaller towns and villages often rely a great deal on volunteers or people in libraries who are working in a part-time position. They perhaps have an even greater reliance on the library boards to assure that the libraries are operating to the best of their ability and in compliance with the library laws. There is an expectation that library board members do participate in continuing education. It's almost essential that library board members are well-informed, have an interest and do make the effort to participate in ongoing, continuing education to assure that they are aware of trends and issues that are related to libraries. And in my notes I cite some data that we have about the number of events and participants in continuing education activity. In all, we probably have around 1,200 individuals who are serving on public library boards across the state in the smaller towns and villages under 5,000 population. One thing that I would certainly want to say is that the men and women who serve on city councils, village boards, deserve our thanks and appreciation. They take on an increasingly difficult job, a complex job, and I believe that adding on the responsibilities, the direct responsibilities for being

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trustees of the public library is not good public policy. I recognize the difficulty of finding people, recruiting people to serve on community boards, including the library. It's too important to do this as an end-of-the-agenda item on an already long village board or city council meeting agenda. We need people...

SENATOR LANDIS: Let me interrupt for just a minute, Rod.

ROD WAGNER: Certainly.

SENATOR LANDIS: Would that be true for a town that didn't have a library board? Would it be more important not to have a library because there was not a library board, or would it be, in that situation if that was the choice, you might then say, well, better to have a city library even though it's run by a city council with an advisory committee?

ROD WAGNER: Well, there are a number of smaller towns across Nebraska that do not have libraries. And certainly there are...

SENATOR LANDIS: Yeah, and would we rather...if the price of not having that town have a library is because they won't use or have the library board phenomenon? Would you rather maintain that status quo or give them the option of having a library with a city council oversight?

ROD WAGNER: We certainly need to have something in place to govern the library. I believe that the best arrangement is to work toward and recruit and find people willing to serve on a library board. I think they can be found.

SENATOR LANDIS: All right, and I got that from your...that you've already told me, which is not what I'm asking about. I'm asking, where there isn't a library and the option is between a library with city council oversight or no library?

ROD WAGNER: Certainly better to have some governing option in place, of course. And I think...

SENATOR LANDIS: Thank you. I interrupted you. Feel free to go back to your material.

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ROD WAGNER: Thank you. I believe that there can be found people in any Nebraska community. Five is the minimum number. I think we can find five people in any Nebraska community that currently has a library to serve on a library board. I think they need to be people who are interested in the library, willing to serve, also to get the experience of working on behalf of their community. People who serve on library boards get some really good experience working in local politics, local government, often moving on to other offices perhaps beyond that. So they do assume a great responsibility. I don't believe there is a compelling reason to change the law as it is, and I would say that in my reading of the bill as it was put forward, it reads to me that if a library is already established, that a governing board is in place. To me, the bill reads that if a community wishes to form, create a library, then the city council or board would have the option of appointing a governing board or retaining that authority within the city council. But I may be misreading it. I did understand the intent stated by Mr. Krumland. The other point that I would make is that the city council and village board already have authority over the library. They have that authority in the appointments they make. And they also have the authority in setting the library's budget. They determine how much that library will receive from the city or the village each year when they develop their budget. Certainly, there are situations where conflicts arise. That's where we need to do a better job of helping resolve those for the best interests of the community. And I would say that the Nebraska Library Commission, the six regional library systems, and the Nebraska Library Association, are very willing and capable to work with library boards and local governing bodies throughout the state to work toward having the best possible people working on behalf of library services in Nebraska. With that, I'll stop and be happy to answer any further questions you may have.

SENATOR JANSSEN: Any questions? Senator Wehrbein.

SENATOR WEHRBEIN: I don't...I guess after having my memory refreshed, I think nearly all libraries are city/village bound, if you will. There's no...are there some rural library situations? I was thinking about expanding the pool of possible...

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ROD WAGNER: We have, from time to time, some communities that will seek information about creating a library. Sometimes it may be formed as a volunteer library where a group of individuals get together and arrange for a space and some materials, but that doesn't happen too often anymore. Yes, most of our libraries in Nebraska are municipal libraries. There are some that are county libraries, but not very many. And there are a number of municipal libraries that do receive, in addition, county money to serve the community outside of the village or city.

SENATOR WEHRBEIN: I supposed that we would open up a can of worms if you let somebody outside the city limits be involved in a library board in a town.

ROD WAGNER: Yeah, I don't think that situation is...there have been some legal questions come up about that arrangement, yeah.

SENATOR WEHRBEIN: I was just trying to think of a way to... You haven't really solved the problem of the pool.

ROD WAGNER: Because...

SENATOR WEHRBEIN: I mean, it's easy to say that there's people out there that would,...

ROD WAGNER: There are; yes.

SENATOR WEHRBEIN: ...but I'm sure a lot of these communities have tried hard.

ROD WAGNER: And because there are certainly people who live outside of a village or a town, people who live out in the rural area beyond, that are active library users and would be candidates to serve on a library board; yeah.

SENATOR WEHRBEIN: I know some are on the foundation...

ROD WAGNER: Certainly; yeah.

SENATOR WEHRBEIN: ...which I think would be ethical.

ROD WAGNER: Well, that's certainly appropriate.

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SENATOR WEHRBEIN: Yeah. Thank you.

SENATOR JANSSEN: Other questions? Seeing none, thank you, Rod.

ROD WAGNER: Thank you, Senator.

SENATOR JANSSEN: Next opponent?

PENNY JEFFREY: (Exhibit 9) My name is Penny Jeffrey, J-e-f-f-r-e-y. I'm the library director for the Oconto Public Library, and I also sit on the board of the Meridian Regional Library System. And I will tell you that I am from one of those very tiny rural communities. We have 150 people in our town. We do have an appointed library board. They are a governing board. We have...people serve on our library board from both within our town and also from the rural areas outside of our town. Our library, as well as our senior center and our community hall, were destroyed in a tornado on Halloween 2000. And we have since rebuilt. We now are all under one roof to provide more economical and efficient operation and use. LB 599 would hurt our library. As I read it, it gives the village board the power to govern the library and we already have statutes in place giving our village board oversight over our library board. They do...we annually report to our village board to keep them up-to-date with all our usage statistics and things that are going on with the library. I actually report to them more often than annually, but we're required to report annually, and I do that. They already have in place the powers to take care of problems if they arise with our library. And we did have a big problem; our library got blown away. And our library board were the ones that took the initiative to take care of all the thousands of details necessary to get the library rebuilt and back up and functioning. The village board helped us but they had their own enormous problems getting the rest of the town back up and running and rebuilt. Another section of the bill that gives me concern is it gives the village the authority to receive money for the library, in trust or otherwise. And it's the otherwise part that concerns me as a library director. The Oconto library receives no direct tax funding for our operations. We have a place. The village provides our space and our heat and our electricity, but we fund-raise and receive donations for 100 percent of our operations, or

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we get it through grants. The village board faces its own economic problems. And times are tight and I understand that; it's tight for the library. But if money were to flow through the general village fund, it would be easy for them to spend it on other vital services, even if they had the best of intentions of eventually getting it to the library. We recently had a case in Oconto. The community hall has high heating bills this winter and low income during the winter. And the village board was looking for some money to pay some high propane bills. We have a treasurer of our library board and she takes care of checking and savings accounts--the monies that come in and flow out of the library. If the library funds had been commingled with the village funds, it would have been a matter of writing the check to pay the propane bill. As it was, the village accessed money from another account and paid their bill; the library funds were left intact. The other thing that concerns me is that we already have a library board meeting each month. It generally runs an hour or so. I bring things to the meeting; I report to the board; policies, procedures, bills to be paid, books to be bought, programs; all the minutia of running a public library. And then our library board takes that information home with them and then can study it on their own time and get back to me the next month. The village board meetings, which I attend probably half of them through the year, generally run two hours or more, and if I speak at all it is generally for around five minutes or so to give them a general update, and they would not appreciate me taking up an hour or more of their time on the end of their meeting. As far as getting people to volunteer for boards, we are about as small as they come. And it is true that it's hard to find people to serve on boards, but that's true no matter the size of the town. It's just as hard to find people to serve on boards in big towns. This would hurt us because the village board must be made up of people who reside in our village. Our library board can be made up of people who reside in our service area, which is not just the limits of our town; it is our entire township, which is significantly larger than our tiny town. And right now about half of our board are made up, our library board, are made up of people outside the village limits. And I would just close with saying that people and personalities and priorities change as the village and municipal boards change. But we already have statutes in place to put library boards there whose first priority is

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the library, and they are interested and they want to deal with the library. And the municipal boards, their priority, although the library may be a part of it, they have a much further ranging priority set than just the library. And I would be glad to answer any questions.

SENATOR JANSSEN: Okay. Any questions? I heard you say that you can...the library boards can go outside the village or the city limits to recruit people to be on the...?

PENNY JEFFREY: On the library board.

SENATOR JANSSEN: All right. What is the area? How far outside?

PENNY JEFFREY: On our library board, when the village first established it, they appointed the initial board and gave us directive that we could...our service area is technically our township, and so we can get people anywhere in our township.

SENATOR JANSSEN: Okay. Any other questions? Senator Fischer.

SENATOR FISCHER: Penny, nice to see you today. Penny is one of my constituents in Oconto and they have wonderful facilities in that town after recovering from the tornado in 2000.

PENNY JEFFREY: Thank you.

SENATOR FISCHER: Could you explain to the other senators what the Meridian Regional Library System is in our area?

PENNY JEFFREY: Yes. I believe there are six regional systems throughout the state, and they provide support services. The systems provide support services to us little libraries. They actually provide support services to the big ones, too, but the small ones rely on them much more. I didn't get involved with our regional system until after our tornado. And our system administrator helped me immensely in rebuilding a library from scratch. I had no idea how to do this and she did. And it got me interested in the system being a support mechanism for the small, rural libraries. She advises us on legalities, privacy statutes, open meeting

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laws, all those things that we have to do to be in compliance with the commission, because the commission also requires us to do certain things. We have to file an annual statistical report with the commission that is quite lengthy, and she helps us with that. And basically any question I might have on the running of the library, I can go to the system first before I go to the commission. And they simply are a resource for us.

SENATOR FISCHER: Okay, thank you. Also I received a lot of letters on this and e-mails, and people in small towns are concerned that if the village council or village board takes over, that funds will be cut and then these small libraries will lose their accreditation. And that impacts federal funding, is that correct?

PENNY JEFFREY: That's correct. The commission sets certain standards that you have to meet to be an accredited library. And once you meet that accreditation standard, you're eligible for state aid and federal grants. And if you lose your accreditation, then you're no longer eligible for that funding. Some of the libraries, like mine, we get no direct tax funding so we survive off grants and fund-raising and donations. I'm sure our village board has the best of intentions, and it may not be the day after the bill is signed that they would do anything, but those boards change as the years change, and if there is an economic problem and there is the ability to cut library funding to pay for something else, there is no oversight then. Right now, they already have the oversight because those municipal boards already set the budgets.

SENATOR FISCHER: We've been hearing that on the floor the last three days in regard to schools, but not to get into that issue. I don't believe the letters I've received on this, anybody has been whining that the village board is out to get the libraries. What they're concerned about is if funding is cut, then that accreditation will be lost and then the grants will be lost. Would you say that's correct?

PENNY JEFFREY: I would say that's correct.

SENATOR FISCHER: Okay. Thank you.

SENATOR JANSSEN: Senator Wehrbein.

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SENATOR WEHRBEIN: Just real quick, do you have any idea how many others around the state operate strictly on donations and grants and so forth? You have no tax base, except that you pay utilities.

PENNY JEFFREY: Well, our tax base is in-kind. And when we file our statistical report with the Library Commission, that is our tax funding is...

SENATOR WEHRBEIN: The heat and that type of thing.

PENNY JEFFREY: ...is our rent, our heat, and our electricity. In lieu of getting direct money for operations, we get our space. And so then that's how it's reported on the statistical reports.

SENATOR WEHRBEIN: I won't pursue it. It's interesting in that service area thing where you've included a township, I don't know where the whole town...

PENNY JEFFREY: We used to get money from the township board for library services. Up until about four years ago we got a little bit of money from the township. But their funding was cut, and so once their funding was cut, the very first thing that was cut was the library funds, so now we get no money from the township.

SENATOR WEHRBEIN: Okay, thank you.

SENATOR JANSSEN: Senator Erdman, did you have a question? All right.

SENATOR ERDMAN: Mr. Chairman, I'm well, thank you.

SENATOR JANSSEN: All right. Any other questions?

SENATOR FISCHER: I have taken care of it.

SENATOR JANSSEN: All right. Thank you.

PENNY JEFFREY: Thank you.

SENATOR JANSSEN: Next opponent?

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GARY WRIGHT: Senator Janssen and members of the committee, my name is Gary Wright. I am the president of the Broken Bow Public Library board.

SENATOR JANSSEN: Would you spell your last name?

GARY WRIGHT: I'm sorry; Gary, G-a-r-y, Wright, W-r-i-g-h-t. And our board of directors of the Broken Bow Public Library has voted unanimously to oppose LB 599. Several things came into that decision. One was that in Broken Bow we have a good city council but we feel that some of the time they've got so many things to do and so many other things to cover that maybe they can't adequately understand everything that's going on in the library. And for that reason, we feel it's very essential that we have a library that is fairly independent. Senator Fischer asked, or said, made the comment and asked about questions, you know, with the money. I'd like to just mention very quickly some things that have happened in Broken Bow. Our city council gave us a 2 percent cut in our budget this past year. And, of course, we went back to them and talked to them about it, and one of the responses was that they would reduce the hours of one of our full-time employees. We have two full-time employees and they would reduce the hours of one of our full-time employees, which would have made her not eligible for benefits and things like that. And as a board, we said, no, we had the responsibility and right to hire her. So they said, okay, it's up to you then to decide what you're going to do; here's the amount of money you have and it's up to you to decide what we're going to do with that money. And so we decided to close the library on Saturday, which, of course, was not a very popular issue and we got some phone calls and stuff--we knew we would. But that was the kind of thing we had to do. I think that perhaps if we would have had a situation where the city council would have been determining things for the library, they maybe would have made further cuts which we feel would have hurt our library. We had a survey a few years ago, and the library was ranked as one of the best things in Broken Bow, and we hated to see anything like that happen to our library. We think, with our board of directors, as we have it...and we are appointed by the mayor and approved by the city council and we have two terms and that's all the longer we can be on the library board, so we aren't there for 185 years to decide all of these things...we fell that with the situation

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as it is in our town anyway, it's very important that we have...I guess I should say the power...the authority to run the library even though our city council...we understand their financial situation. But we feel that we have taken several in-service things and we kind of understand, I think, a little bit about what it takes to run the library. Any questions that I could...?

SENATOR JANSSEN: Any questions? Seeing none...oh, there we go.

SENATOR FISCHER: I have constituents here today so,...

SENATOR JANSSEN: Sure; that's fine.

SENATOR FISCHER: Hi, Gary, how are you?

GARY WRIGHT: How are you, Senator.

SENATOR FISCHER: In reading the newspaper in Broken Bow, Custer County Chief, and in visiting with people, too, I realize that the city is having some budget problems now. I'm going to ask you the same question. Are you...you mentioned that that 2 percent cut you had to close on Saturdays so you wouldn't have to reduce the hours for one of the employees.

GARY WRIGHT: Um-hum.

SENATOR FISCHER: Are you worried about accreditation then in order to receive grants?

GARY WRIGHT: Yes, we are. We...you know, definitely a problem that we face. And we have had a meeting, and I'm sure Joan will talk about the planning session that we had. We've also had some meetings with some other members of the city council and talked about all of these things. And I think, again, back to the fact that they don't have the time really to study everything as adequately as we would like, they started to understand a little bit better what our position is. And hopefully next year we don't have the problem of whether we have to close the library on Saturday or not, or things like that.

SENATOR FISCHER: Okay. Thank you.

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GARY WRIGHT: Thank you.

SENATOR JANSSEN: Any other questions? Thank you, Gary, for being with us today. Next opponent?

JOAN BIRNIE: (Exhibit 10) Good afternoon, Senator Janssen and other committee members. My name is Joan, J-o-a-n, Birnie, B-i-r-n-i-e, and I'm the director of the Broken Bow Public Library and I also am vice president-elect of the Nebraska Library Association. And I'm here to speak in opposition to LB 599, not only as a library director of a second-class city but also to let you know that the Nebraska Library Association has opposed the bill, as well. I won't reiterate a lot of what has already been said by other opponents, but I would like to maybe offer some more information. One of the things I would like for you to consider regarding this bill is that proper management of a library is not unlike proper management of a business. And as the staff and director of the library, or our staff and myself as the director, we feel that our business is serving our users and the community of Broken Bow. And that business can be most successful when we have someone who understands our operation, who can look at our statistical reports, who can take my monthly reports from our board meetings, review those, and use those documents to help keep the business running, not only smoothly but also efficiently and most effective with the money that is given us by the city of Broken Bow. Also, a governing board, I believe, is the best way for a community's library director to be responsible to the library and not possibly to the city government. I believe it's a way of controlling a director's position so that they best respond to the needs of the people they serve and best respond to the library staff that they work with. Gary Wright gave you some background on what we experienced in Broken Bow this past summer in our planning for this current fiscal year. And had the council had the authority to make adjustments in staff hours and even open hours for our library, I believe it would have been even more detrimental than the decision that our board made to close on Saturday. I think they would have severely affected the users of the library more so than already happened by us closing on Saturday, and I believe that the services that our community members and the library users so valued would have been severely affected.

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Finally, I wanted to follow up a little bit more on what Gary Wright said regarding a recent meeting. We had a series of meetings, strategic planning and visioning sessions, and our library board facilitated those meetings with the help of our local economic developer. The goal was to get community input and to try to use that input to plan for the library's future. The meetings were attended by two of our city council members, and they were very interested and followed very closely some of the accreditation concerns and other situations that had come about with the reduction in our budget. It was apparent at those meetings, however, that even though they were concerned and had some interest in what was going on, it was our library board that best understood how to move our library ahead because of the continuing education that they've gone through, because of their close work with myself and with our staff, and also because of the input that they receive not just during those meetings but ongoing from the community, whether they're library users or concerned citizens. So I believe that the leadership of libraries in second-class cities is best served when a library board acts as the leaders and they have the time and the opportunity to invest in improving that library and serving the people that they are there to serve. So I appreciate your time and hearing me.

SENATOR JANSSEN: We appreciate you coming down. Any questions? Senator Erdman.

SENATOR ERDMAN: Joan, right?

JOAN BIRNIE: Yes.

SENATOR ERDMAN: Joan, the story that it appears that most of you are telling are quite different than those that are proponents of the bill, say, Hemingford. And it appears that your situation is unique and you don't want any changes in that governance or operations, and yet by doing nothing we still have a problem in places such as Hemingford as far as the existing law and regarding to libraries. Do you have any thoughts on what the solution might be? I mean, we're not going to be able to go recruit people. I think they've tried to do that and I think that that's something that has been a concern. And I appreciate the concerns that you bring but I'm trying to sort out what the solution might be for their situation that would have them bring the bill

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before us. I mean, is there a middle ground here somewhere that says, you know, in the event that they can't fill a library board, they could have this authority, or...? Because it sounds like you have an active library in Broken Bow. It sounds like you have an active library in Oconto and other places as far as the library board. What is the solution?

JOAN BIRNIE: I can't address what the solution might be for Hemingford or the communities that have problems filling their library board vacancies. We, as Gary said, we have five members on our library board. They serve two terms of four years each. And, honestly, we have people waiting in the wings that are anxious to serve on our library board.

SENATOR ERDMAN: And I can appreciate that in a town of 4,000 people compared to a town of...

JOAN BIRNIE: And I feel...

SENATOR ERDMAN: ...you know, and it's obviously a unique situation and I'm sure it's more prevalent than what people would probably admit, but I'm just trying to gather ideas of what may work because it sounds great, the ideas that are proposed--the education opportunities for library board members. But nobody in the opposition has proposed ideas that anybody that's here promoting the bill could take home with them and say, hey, this is a better idea than what we asked for.

JOAN BIRNIE: I can't help you with that. I'm sorry.

SENATOR ERDMAN: That's all right. Thanks.

SENATOR JANSSEN: Any other questions? Senator Wehrbein.

SENATOR WEHRBEIN: Real quick; I don't want to prolong it. Is your service area the town of Broken Bow?

JOAN BIRNIE: It is just the town of Broken Bow.

SENATOR WEHRBEIN: And you have a tax base.

JOAN BIRNIE: Just the city of Broken Bow.

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SENATOR WEHRBEIN: That comes through the county to the city.

SENATOR JANSSEN: Other questions? Seeing none, thank you for being with us, Joan.

JOAN BIRNIE: Thank you.

SENATOR JANSSEN: Next opponent? Anyone in a neutral capacity? Seeing none, Senator Louden to close.

SENATOR LOUDEN: Thank you, Senator Janssen. I'll be brief as I usually am on this. I think as we go over this, if anybody has noticed on that little sheet I passed out, they have the options here. You can either...these smaller cities and villages can either appoint a library board, which they all do now, and those library boards more or less serve at the whims, or whatever you want to call it, of the city council. The reason I know that, I'm not familiar with the Oconto or the Broken Bow board, but I am familiar with the one from Alliance when Mr. Wagner from the Library Commission mentioned that Wally Seiler sent in a letter. Now, I didn't have the privilege to read Wally Seiler's letter, but I can tell you what. There was a city librarian that was there for 29 years and got fired in an instant, and nobody liked it, but the city council gave the authority to the city manager to do it, and she was out of there. So I know that the city...the libraries are operated by the city council and the villages. So that isn't changing. If you'll notice with LB 599, they either can appoint a library board such as they do now, or they may retain control of the library and appoint an advisory board. LB 599 isn't any killer whale lurking in the shallows to tear libraries apart. It's more or less just something to give some of these libraries in these smaller towns an option so that they don't lose their libraries. I'm a firm believer in them and I think we need to do what we can to help them. So, with that, I would urge the advancement of LB 599 and see if we can work this thing out as we go. Any questions?

SENATOR JANSSEN: Okay, thank you, LeRoy. That ends the hearing on LB 599. Senator Synowiecki. He was here. Is he still here? Oh, I see him. He's back in the corner. Senator Synowiecki is going to tell us all about LB 745. Can you take your conversations outside the door, please?

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Senator Synowiecki.

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SENATOR SYNOWIECKI: Senator Janssen, members of the General Affairs Committee, good afternoon. I'm John Synowiecki. I represent District 7 from Omaha. Today I bring LB 745 for your consideration, a bill to authorize the State Racing Commission to license and regulate wagering on historic races. Nebraska and the sport of thoroughbred racing have realized a long, rich tradition of mutual benefit. The breeding and raising of horses is a good fit for Nebraska. Since 1934, thoroughbred racing has complimented our state's agriculturally based economy. In recent years, however, thoroughbred racing, Nebraska's racetracks, and thoroughbred breeders have struggled against various forms of expanded gaming, both within Nebraska and surrounding states. LB 745 merely gives the thoroughbred racing industry a tool to be competitive. There will be other individuals testifying after me that are better qualified to address the technical aspects of the system. But, like current simulcast thoroughbred racing, this bill will authorize racing that originates from an outside location and is transferred through the racetracks' current simulcast system. The outside system stores tens of thousands of digitized official races that have been run at regulated racetracks. Prior to placing a wager, the patron is provided past performance information. However, the names of the thoroughbred, the jockey, the race, and racetrack are all concealed until the patron places his or her wager. I want to be clear, this is not expanded gambling. This is an advanced type of parimutuel wagering of regulated races simulcast to licensed racetracks. Thoroughbred and quarter horse racing is a part of Nebraska history, both economically and culturally. I believe it is imperative to give the State Racing Commission the authority to enhance Nebraska thoroughbred racing's competitiveness in the gaming market. I want to thank Senator Janssen and members of the committee for giving LB 745 your full attention.

SENATOR LANDIS: Remember the movie Back to the Future III? (Laughter) Because in Back to the Future III there is this almanac that, like, works its way into the future, and he gets rich by betting on things that are happening in that

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time zone with the almanac that he knows the winners of. For example, sir, if I'm betting on the 1939 Kentucky Derby,...

SENATOR SYNOWIECKI: (Laugh)

SENATOR LANDIS: John, how do we do that thing so that there is a new winner in the 1939 Kentucky Derby? I'm flummoxed by this idea. So I am intrigued that we're not trapped in Back to the Future III. I bet somebody is going to explain how this is not that situation.

SENATOR SYNOWIECKI: Someone will explain, but I think the gist is, is that the patron doesn't know it's the 1939 Kentucky Derby until after the wager is placed.

SENATOR LANDIS: I think I've got that, actually that drift from what you were saying anyway. (Inaudible.)

SENATOR JANSSEN: Any other questions? Senator Synowiecki, you know, if in 1934, that was quite a year. I think Prohibition ended and we started thoroughbred racing. You know if it wouldn't have been for that happening, this committee, all we would hear is library bills, so. (Laughter) Anyway, all right, seeing no more questions, are you going to stick around to close, are you, John?

SENATOR SYNOWIECKI: Yes. Thank you, Senator.

SENATOR JANSSEN: We'll take proponents first.

SENATOR CONNEALY: Maybe he knows how it's going to turn out.

MIKE KELLEY: Senator Janssen and members of the General Affairs Committee, my name is Mike Kelley, K-e-l-l-e-y. I'm the registered lobbyist for the Nebraska Horsemen's Association, NHBPA, and also the Omaha Exposition and Racing, which is commonly called Horseman's Park. About seven or eight years ago a very ingenious fellow down in Hot Springs, Arkansas, where Oaklawn Park is located, invented this system where you take races that were previously run, and they have to get races that all have ten horses in the race, and he put it in the computer and the computer combined that with total (inaudible) information

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that they have now, and you can parimutuel wager on these races. A very ingenious idea. They went and got a patent on it...(takes drink) I've always been gravely but now I am worse...they went and got a patent on this. So then they tried it, they marketed it out in Arkansas. Of course, it went to the courts. The Arkansas Supreme Court said it's the purview of the racing commission to allow it or not allow it. It's parimutuel wagering; it's within their purview. So then they've got it started and now they have worked it up to where it's a decent enterprise. It's nothing compared to a slot machine. I've said, compared it...this is...if a slot machine is a Harley, this is a tricycle. You know, it's a lot...it is nothing like that. But it is something that would allow us to help ourselves. I've heard senators on the floor of the Legislature many times say, you know, horse racing needs to help itself; they don't need a subsidy; you've got to help yourself. Well, this is horse racing; this is parimutuel horse racing. We had a big public hearing on this in 2003 in front of the Racing Commission. There were some legal issues; we thought we better check with the Attorney General. And, by gosh, the Attorney General, like they always say, you better get legislative approval. And that was in the summer of 2003. In 2004, we had this little debate about other expanded gambling, as I said, which kind of took precedence because this is nowhere near the same level of attention or handle or anything else that you would have there. We think it's...you know, it's not insignificant, and we think we might be able to make \$100,000 or \$200,000 a year off something like this, maybe more; who knows? But that would be one more day of live racing for Horseman's Park. This can't be too widespread because it could only be at racetracks. So you can't...you know it can't be in too many places. Again, it's not an expansion of gambling because we don't require any change in the constitution to do this. And what you're really doing here is allowing the racing...clarifying the authority of the commission in this area; that's really what you're doing. I guess, with that, I'm here to answer any questions. Again, it's kind of a unique concept when you first think about it, but it really...I've seen it work. We took some senators up a couple three years ago. Some of the members of this committee have seen it, and it's fun. I think it's fairly innocuous and it's horse racing. It's a little suspicious, but it's horse racing. And, you know, I'm like Senator

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Landis a little bit, my first thought, but it works. And they actually have controls on this; you can't cheat. You know, you have to...and then they give you...by the way, I should have mentioned this, they...you actually see the race run. You punch a button and the race runs. And you also see, before you bet, you see information that would typically be in the racing form. So there is an element of skill in it. This is not just punching buttons. You actually look through and you get handicap information and then you try to decide. The difference is, you don't have the name of the jockey, you don't have the name of the horse, you don't even know what racetrack it is, you don't even know how long the race is. And you punch a button and there goes the race. And it's as exciting as a real race because you've got money on it. So, you know, it's fun and it's not something I would probably play a lot, but a lot of people do. It's very popular in Arkansas and so it's horse racing and it's legal here, we believe, so we would like to have the opportunity to try it. Questions?

SENATOR JANSSEN: Senator Wehrbein, do you have...

SENATOR WEHRBEIN: I guess you've answered my question. The horses are numbered apparently, and not by name.

MIKE KELLEY: Right, you're picking...

SENATOR WEHRBEIN: Because there is no question in my mind, there is some sharpie out there that can remember who ran in the 1939 Preakness.

SENATOR LANDIS: (Laugh)

SENATOR WEHRBEIN: I mean, you have to...

MIKE KELLEY: That's true but you don't know that. They did...an interesting story, they did have, originally when they did this, a guy did figure out a way to beat it. When the original...because of the form, the way they put the form information in it...but this was a computer guy...he figured out the way they were doing it, and he beat it. Well, they fixed that and they've had no trouble since then. But somebody did manage to figure out a way to do it, but that's something you always go through. Senator.

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SENATOR CORNETT: When you said the length of the race wouldn't be known, they won't know it is a half-mile, mile and a half?

MIKE KELLEY: No. No, they don't.

SENATOR CORNETT: Oh, because that's something that normally figures into the statistics.

MIKE KELLEY: It does, but that's not one of the...they don't give you...there's about 24 things they give you in the information that are form information, and that's typically not one of the things they tell you, but you they do tell you, like, who has been the leading jockey, who's the leading trainer, who's made the most money--those types of things.

SENATOR JANSSEN: Senator Landis.

SENATOR LANDIS: Mike, is it the fact that you can control this? I was trying to think, it's not that we have a lack of horse racing, the contemporary, you know, horse racing where you have the simulcast. However, I suppose that if you could control it with a video, you could play it...you wouldn't have to wait between races.

MIKE KELLEY: Right.

SENATOR LANDIS: You could go, bang, dah-dah-dah-dah, boom, and you would have...rather than having the horse track decide it, you could pick up the pace at which you were making these decisions...

MIKE KELLEY: You could go faster, although now with current modern simulcasting, with the Horseman's Park typically on a Thursday, they'll have 14 tracks. You can bet every minute and a half. In fact, I can't keep track of them. I can only beat really only one or two tracks at once; that's it.

SENATOR LANDIS: Yeah. Why...what is the attraction of this compared to that? I don't get it.

MIKE KELLEY: That is a very good question, but some people like the instant play. They're not intimidated by the fact they can go up, it won't laugh at you if you make the bet

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wrong or something, that it will go beep or something, but it won't laugh at you, and people like the action of...and it still takes a couple minutes; they still got to watch the race. But you are right, that is different. And, to me, compared to live racing, no, it's nothing. I...you know...I do want to know all the things that's in the form. I want to know all those things. But a lot of people like the attraction of being able to sit down and play with a system or a screen, and it's like a video game. You know, I mean, I'm not much into them, but they are making billions of dollars...

SENATOR LANDIS: Some people are.

MIKE KELLEY: ...so a lot of people like it. And a lot of people prefer it. So it's just a way to market parimutuel wagering a different way.

SENATOR JANSSEN: Senator Friend.

SENATOR FRIEND: Thank you, Senator Janssen. Mike, tell me if this can actually happen and which would actually be quite funny. You key in all your information, the race goes off, and then suddenly, boom, up on the screen Secretariat blows out of the gates and you go, I don't think I picked that number horse, and then you are laughing the whole way around because you know you're shot. Whatever horse you picked it's going to get blown away by 31 lengths at the Belmont in 1973, whatever it was?

MIKE KELLEY: Well, again, you don't know. They...

SENATOR FRIEND: Could that happen? I mean, are we talking about famous historic races here?

MIKE KELLEY: No, not typically because there has to be ten. Remember, then have to have ten. Most Kentucky Derbys have 15, 16 horses. They very seldom would have ten, and they generally do...they've got like 50,000 races in there. But they have to have ten horses, so they would... And, again, you still wouldn't know, though, but you are watching Whirlaway anyway because it's not...it's just number three. Unless you are really a student of the game, you're not going to recognize a horse by looking at him. Maybe some horseman would, but not too many, you know.

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SENATOR FRIEND: Yeah, I see.

MIKE KELLEY: And that doesn't affect it. Hey, you've already bet; it doesn't matter even if you recognize it.

SENATOR FRIEND: Oh, I know. I just think it would be funny to watch, you didn't bet on Secretariat and know you're going to get...you know, you don't even have to watch the race now.

MIKE KELLEY: It is conceivable someone who is a trainer of horses that trains them all over, might recognize a race. That would be rare but you might recognize the race, but you would know, yeah, you're dead if you know the outcome. But that's, the way it works that would be very rare. Be very rare.

SENATOR FRIEND: Hum.

SENATOR JANSSEN: Mike, how many states allow this now?

MIKE KELLEY: That's...and I meant to look that up this morning...the last that I know, Senator, there was about four or five that were actually doing this.

SENATOR JANSSEN: How many states have thoroughbred racing?

MIKE KELLEY: Oh, either simulcasting or racing, I think about 30.

SENATOR JANSSEN: Okay. All right, explain to the committee how it is different from regular simulcasting.

MIKE KELLEY: I guess the main difference is these races have already been run.

SENATOR JANSSEN: No, I mean in the speed of what you could play it.

MIKE KELLEY: It is exactly the same.

SENATOR JANSSEN: All right, because how many monitors, how many different races do they have at Horseman's Park? I don't know what they have here in Lincoln.

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MIKE KELLEY: Typically, at Horseman's Park on a busy day you'll have like 13 or 14 tracks which are going. Of course, some get over and then others start, but you'll have maybe seven, eight, nine going at once.

SENATOR JANSSEN: How many monitors do you have?

MIKE KELLEY: Oh, there's 400 televisions there.

SENATOR JANSSEN: So you could just keeping going right on down the line...

MIKE KELLEY: Yes.

SENATOR JANSSEN: ...on them...

MIKE KELLEY: Yes.

SENATOR JANSSEN: ...and making bets as fast as you could.

MIKE KELLEY: Yes. In theory, someone playing these, it's very similar, identical to betting on simulcasting, except you are controlling. When it starts you are in control of it because it's a touch-tone screen and it's a video and you're playing it. That's the only difference. You have the element of control of it. Otherwise, it's the same thing.

SENATOR JANSSEN: Senator Cornett.

SENATOR CORNETT: Just a question on the machine itself. After you make the bet, do you have to watch the race or can you just immediately find out if you win or lose and then move on?

MIKE KELLEY: You've got to watch the race.

SENATOR CORNETT: So it would just be like watching a regular horse race on a screen.

MIKE KELLEY: Yes. Yes. I think that there is a button...the ones in Arkansas, and this would be the type of thing that the commission would be able to determine here, I think there is a way to speed it up until it goes to the

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last half minute of the race or something. There is a way to speed it up, but you still have to watch some of the race.

SENATOR CORNETT: Okay. Do you know what we would have here, the full race, or...?

MIKE KELLEY: I'm sure that we would usually like to do what they do in Arkansas, and allow for either full race or maybe a shortened version where you are seeing the last quarter mile, or something like that.

SENATOR CORNETT: Okay.

MIKE KELLEY: But you will still be watching the race. If you walked away from it, you would never know and you have to watch it.

SENATOR CORNETT: Well, that's not what I meant. It was just like, you place your bet, and then...

MIKE KELLEY: Yeah. There is a way, Senator...there is a way to quicken it up to go to somewhat speedier, and I think they do that in Arkansas. That's what we demonstrated to the commission. Again, we had a big public hearing on this a couple years ago in Omaha and that was demonstrated then.

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

MIKE KELLEY: Thank you very much, Senator.

SENATOR JANSSEN: Next proponent?

KERWYN PARKENING: Good afternoon. My name is Kerwyn Parkening, P-a-r-k-e-n-i-n-g. I'm on the board of directors of the Nebraska HBPA. And Mike asked me to come down here and say something, but he didn't leave me any thing left for me to say. (Laughter)

SENATOR LANDIS: Me, too. (Laughter)

KERWYN PARKENING: Anyway, I've seen these machines down at Oaklawn Park in Hot Springs. And I looked at them pretty close; I didn't play them; that's not my type of gambling.

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But there are some people that sit around there everyday out at Oaklawn Park and play those machines. It's not big deal; it's not like putting up 100 slot machines and people standing up behind them to play them. But they do get some play. And we're struggling financially in Nebraska. I've been in the horse business 35 years and I've had race horses for 35 years and we're struggling in Nebraska financially. We need any little bit of help that we can get. And if some people enjoy playing those machines, I don't see any problem and not letting them play them. That's my opinion.

SENATOR JANSSEN: Any questions? Senator Cornett.

SENATOR CORNETT: Is there going to be a maximum bet that's allowed on the machines?

KERWYN PARKENING: You know, I don't think you can bet over \$5 a time. Am I right on that, Mike?

SENATOR CORNETT: But you can bet more than that at a window.

KERWYN PARKENING: Oh, yeah. You can bet as much...as deep as your pockets are at the window.

SENATOR CORNETT: Right. But there is a limit on the machines then.

KERWYN PARKENING: Pardon me?

SENATOR CORNETT: There is a limit on the machines.

KERWYN PARKENING: There is a limit and I think it's \$5. I'm not positive about that. I mean, I would have to check in. And another thing about these. See, I was at a couple of those meetings that they had when they had the machines up here. People brought them up and demonstrated them. And I know I heard this, I wouldn't swear to...on a Bible to it, but somebody said they don't have any of those famous horse races in this system. I know I heard that. I mean, I can't prove it sitting right here right now, but that was talked about, and they said there are no...you know, like the Kentucky Derby and those races aren't in that system.

SENATOR JANSSEN: But they could have some of yours.

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KERWYN PARKENING: I wish. (Laughter)

SENATOR JANSSEN: Then you would know.

KERWYN PARKENING: Well, I think...I don't where those...there is such a mix-up in those races, I don't think that would probably ever come up.

SENATOR JANSSEN: Any other questions?

SENATOR WEHRBEIN: Just as a matter of interest, are you a breeder, you said?

KERWYN PARKENING: I'm not a breeder. I don't breed anymore, but I own racehorses and train racehorses.

SENATOR WEHRBEIN: Could you recognize your horse in a typical race, do you think, on a machine?

KERWYN PARKENING: Oh, yeah. I probably could. I don't know if those machines are that clear...

SENATOR WEHRBEIN: That's what I was wondering.

KERWYN PARKENING: ...that you could really do that. I didn't study those machines that well. But, I mean, if I was watching a TV program or something and I saw one of my horses, yeah, I would recognize that horse.

SENATOR LANDIS: My brother Bill and his wife Margaret are racehorse owners, and I could identify their horse; it would be the last horse. (Laughter)

SENATOR JANSSEN: It would be after the fact, Senator.

SENATOR LANDIS: It would be after the fact, but I could identify the horse.

KERWYN PARKENING: I don't think that you actually see those horses until the race is already started though, so that would eliminate that, if that...

SENATOR FRIEND: They're in the gate.

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KERWYN PARKENING: Yeah. I mean, you don't see them until they come out of the gate so you wouldn't know...you couldn't do that even if you did recognize your horse.

SENATOR JANSSEN: All right. Okay, any other questions? Thank you for being with us today.

KERWYN PARKENING: Thank you.

SENATOR JANSSEN: Next proponent. Seeing none, how about opponents. Are you an opponent?

DENNIS OELSCHLAGER: No. Neutral?

SENATOR JANSSEN: Neutral. Okay.

DENNIS OELSCHLAGER: Senator Janssen, members of the committee, again, my name is Dennis Oelschlager, executive secretary for the Racing Commission. And I have...it's been my privilege to be involved in the horse racing industry on the regulatory side for more years than I want to count. So I am aware of the evolution of the historic racing system in Arkansas. I know that it has operated for about eight years. It is definitely parimutuel and there are, in fact, model rules for all of the wagering formats used by that system that have been approved by the national regulatory body, the Association of Racing Commissioners International. So it's not kind of a just fly-by-night concept. There still would be the appropriate due diligence involved in terms of setting up our rules and ongoing monitoring of the system to make sure that it continued to be fair to the players and that it was operated in a way that the proper security at the location of the system was in place so that the highest level of confidence in terms of not manipulating results, and so forth, was occurring, and that's true of any kind of a financial system. So with that, we're really neutral on it, but I just wanted to offer that and be available to answer any questions.

SENATOR JANSSEN: Senator Landis.

SENATOR LANDIS: Dennis, you are neutral because what? You don't want to encourage the policy...give me a winking signal. Look, I'm on the fence on this; I don't have to go either way. I find that kind of intriguing, but on the

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other hand, you know, we've got all this simulcasting we would seem to need. Does the Racing Commission have no qualms; some qualms; kind of interested; doesn't feel like it would be a burden; feels like it would be a burden? Dennis, what should we do?

DENNIS OELSCHLAGER: Yes, sir. Well, first of all, let me clarify I'm speaking as a representative of the Racing Commission and they did come before us and they put on quite a demonstration of the system, and we spent several hours. And in addition to the hearing, many people came by, I believe including some senators, and actually viewed the system. We never came to, as a body, any action or decision because in the process of their due diligence they decided some other steps were appropriate and they asked that it be taped, so that's the answer on behalf of the Racing Commission. I think the statements about the economic status of the industry are entirely on target. I was here earlier on another bill and I said we need funding tied to the primary source of revenue, which is wagering. That's where all their revenue comes from, too. And to the extent I'm saying what I said, I'm sure it's repeated many times over in terms of trying to maintain the number of live racing days that continue to provide the number of jobs and the number of incentives that our industry has at this point in time. And as many of you know, it's a small fraction of what it was a few years ago when we were operating in a different environment. But we have been relatively stable for several years. We're to the point that the industry does need a little help. So having maintained my neutrality, I hope that's responsive to your question. (Laughter)

SENATOR LANDIS: Thank you, Dennis.

SENATOR JANSSEN: Any other questions? Oh, I'm sorry; Senator Connealy.

SENATOR CONNEALY: There's not much direction to you in here (inaudible) regulating, and this just...do you believe that the national rules that have been promulgated are enough, and it seems to me that we might need to put some limits and things like that.

DENNIS OELSCHLAGER: I think the national rules on the

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format of the wagering are perfectly appropriate. I think what the Racing Commission would need to do is, first of all, review the operation in the jurisdiction for where it is going on, and then develop our proposed rules based on that review. We would have to conduct hearings based on those proposed rules. We would have to investigate the applicant in terms of the personnel, the security of the operation, and so forth. I think due diligence would require that. And then finally, I think at a very minimum level I estimated one-tenth FTE a year, we would have to have some ongoing monitoring to make sure that this kind of a system, particularly operating from a base outside of our borders, was continuing to be run in a way that maintained fairness to the public that played it.

SENATOR WEHRBEIN: Could you refresh my memory? Who is on the Racing Commission now?

DENNIS OELSCHLAGER: Dennis Lee is chairman; Janell Beveridge from Paxton is vice chairman; and Bob Volk from Arlington is the third member.

SENATOR WEHRBEIN: Thank you.

SENATOR JANSSEN: Any other questions? Seeing none, thank you for being with us today, Dennis. Anyone else in a neutral capacity? Seeing none, Senator Synowiecki. Senator Synowiecki waives closing. That will end the hearings for today and we're going into Exec Session.