

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

General Affairs Committee
February 11, 2013

[LB73 LB590 LB642 LR41CA]

The Committee on General Affairs met at 1:30 p.m. on Monday, February 11, 2013, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB73, LB642, LB590, and LR41CA. Senators present: Russ Karpisek, Chairperson; Colby Coash, Vice Chairperson; Dave Bloomfield; Jerry Johnson; Bob Krist; Scott Lautenbaugh; John Murante; and Ken Schilz. Senators absent: None.

SENATOR KARPISEK: Okay, we're going to get started. Welcome to the General Affairs Committee. I am Senator Russ Karpisek of Wilber and I chair the committee. The committee members that we have are, today, Senator Murantay (phonetically), darn it, Murante, sorry, (laughter) I just practiced ten times and I blew it, Murante of Gretna. Next to him will be Senator Bloomfield, is entering, of Hoskins; then Senator Lautenbaugh of Omaha. Next to him is Vice Chair of our committee, Senator Coash of Lincoln; Josh Eickmeier, committee legal counsel. To my far left is Christina Case, our committee clerk. Next to her is Senator Johnson of Wahoo; then Senator Schilz of Ogallala; and Senator Krist of Omaha will be arriving shortly. I think he has a bill in another committee. Pages helping us today, we have Cicely Batie. That's it? Is Colton going to be here?

CHRISTINA CASE: Yeah, he's helping...

SENATOR KARPISEK: All right, he's doing something, Colton Wolinski also. After each bill introduction, we would like to hear testimony in support of the bill, then testimony in opposition, and finally neutral testimony. If you are planning on testifying in any capacity, please pick up a sign-in sheet that is on the table at the back of the room at both entrances. Please fill out the sign-in sheet before you testify. When it is your turn to testify, give your sign-in sheet to one of the pages so that they can give it to the committee clerk. This will help us keep a more accurate public record. If you have handouts, please make sure that you have ten copies for the page to hand out to the committee. If you don't have ten, please raise your hand and they will get some made for you. When you come up to testify, please speak clearly into the mike. Please tell us your name and spell your first and last name. Also, please tell us whom you are representing, if anyone. Please turn off your cell phones, pagers, or anything else that beeps. Please keep your conversations to a minimum or take them in the hallway. Finally, while we do allow handouts, we do not allow visual aids or any other display items. We will be using the light system today. We will have five minutes for each testifier. Green light means you have four minutes...well, five minutes. When you get down to the yellow, you'll have one more minute. When it hits red, we'd like you to wrap up your testimony. Our last week went on very long and we have not been able to exec appropriately. We will begin our hearings with Senator McCoy's LB73. Welcome to the General Affairs Committee, Senator McCoy.

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SENATOR McCOY: Thank you, Chairman Karpisek. Good afternoon, members. I am Beau McCoy, for the record that is B-e-a-u M-c-C-o-y, and I represent the 39th District here in the Unicameral, and I am here before you this afternoon to introduce LB73. We've had a lot of discussions in my now five years in the Legislature, in my fifth regular session. I've oftentimes said that I didn't have a concern or something against the horse racing industry. As many of you know, I grew up on a cattle ranch on the Colorado-Nebraska border. We had a number of retired race horses on our ranch. In fact, we raised quarter horses. As we endeavored, my office and I, to try to find, in the interim before this session, try to find ways that we might be able to help the industry and the jobs that are represented in the horse racing industry, we arrived at this piece of legislation. I believe, we believe that it is potentially a helpful piece of legislation that would provide some amount of certainty, I hope, to the industry under the auspices of what is constitutional and what is currently under statute in our state. As you all know, in order to have an interstate simulcast license in Nebraska, racetracks are required to run at least one live day. This applies to every racetrack except Fonner Park in Grand Island, who's required to run 31 days, if we do the math correct, I believe that's the correct number going forward, and Platte County Agricultural Society in Columbus is required to run 23 days, again, if we...if the math and the formulations are done right, which I believe that they are. With the current formula in statute, there must be 49 live race days in 2013 across the state for any licensed, interstate, simulcast facility to operate. LB73 going forward would strike that formula put in place in 1988 and change it to a straight 49 days. LB73 does not remove the requirement that each track must run at least one live race day. I became aware this past November, as I'm sure many of you are as well, that the Columbus track cannot afford to run their required 23 days but would like to have around 14 live race days, as we've been told. If the Columbus track is forced to close because of current statute, the number of required live race days across the state will drop even further, probably somewhere in the 30s, near as we can tell. And again, it is somewhat of a complicated formula, as all of you know. It's a little challenging to try and figure out what those exact numbers are, but near as we can tell it would be somewhere in that range. With LB73 in place, all racetracks are treated equally and hopefully we can keep the number of required live race days up in the state, which I believe helps protect the jobs tied to the Columbus racetrack and to the industry as a whole. And with that, I would conclude, Chairman Karpisek, and entertain any questions if there are any. [LB73]

SENATOR KARPISEK: Thank you, Senator McCoy. Any questions? Seeing none, thank you. [LB73]

SENATOR McCOY: Thank you. [LB73]

SENATOR KARPISEK: Do you intend to stay to close? [LB73]

SENATOR McCOY: I probably will return to the Transportation Committee, if I may, per

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your indulgence. [LB73]

SENATOR KARPISEK: That is just fine. [LB73]

SENATOR McCOY: Thank you. [LB73]

SENATOR KARPISEK: Thank you, Senator. Do we have anyone in support of LB73? Seeing none, do we have any opposition? [LB73]

LORAN SCHMIT: Excuse me, Senator, I'm a little slow on my feet. [LB73]

SENATOR KARPISEK: That's all right. Welcome, Senator. [LB73]

LORAN SCHMIT: Chairman Karpisek and members of the General Affairs Committee, my name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. I live just across the river from the Columbus track. I remember when they authorized gambling there many, many...gambling and horse racing many years ago. I'm a strong supporter of the horse racing industry. I am fortunate to have met and known for years two of the Hall of Fame trainers, Marion Van Berg and Jack Van Berg, who lives at Columbus. I want to tell you something very strange happened this fall...last fall. I was (inaudible) to the Nebraska Farm Bureau Convention and some young men came in there, women, in support of a resolution to support racing in Nebraska. I was a little bit taken aback because you usually don't find that kind of resolution at the Nebraska Farm Bureau Convention, but these young people stated that without continued racing, they were concerned that the facilities that today they use for horse shows and that sort of thing would fall into disrepair and eventually disappear. I can tell you this, that the Columbus facility holds many such horse events during the course of a year. Having raised a large family, most all of my children grew up on horses. And contrasted with some of the recreation today that young folks get involved in, I think the horses were very good for the kids. There's not much to be said about the condition of racing today. We recall, of course, when it was a very popular sport. There's much competition today for the gambling dollar and I like to think that racing as an industry has been a major contributor to the economy of the state of Nebraska. I remember when we thought it was worth \$300 million worth of business. In the 23rd District, which Senator Johnson represents, there were at one time many, many very fine horse farms and a lot of horse breeders in Nebraska. It's unfortunate to a certain extent that the thoroughbred industry has gone downhill, but I do hope that this will be a bill that will keep it in existence and retain, for the people of Nebraska who like the horse profession, the opportunity to engage. I think this will entitle or keep Columbus in the business for a while and I would ask that the bill be advanced to General File. Would answer any questions. [LB73]

SENATOR KARPISEK: Thank you, Mr. Schmit, and we do want to make sure that we realize that Mr. Schmit is in support of the bill. Any questions? Senator Johnson. [LB73]

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SENATOR JOHNSON: Thank you. Thank you, Senator Karpisek. Thanks for coming, Senator Schmit. Do you have any numbers of...because it's part of the ag society, the track there, how many events they have besides the horse racing week? [LB73]

LORAN SCHMIT: I really don't know, Senator, but I would guess at least once a month, maybe oftener than that. I know that they had an event there this last weekend and they have them year-round and they bring in many, many horses and have a lot of activity. And I'm not there that often, but I know that they...I would guess they have at least once or twice a month and more often in the summertime probably than the wintertime. [LB73]

SENATOR JOHNSON: Right. [LB73]

LORAN SCHMIT: But it's a very attractive facility. They have a dedicated local group there and a local ag society to support the continuation of racing and the continuation of the horse shows. So I think it's been very good for Columbus and that area. We have quite a few horse breeders in that area, you know, at this time, even though they're not large, but they still contribute to the economy. I think it's worth saving. I certainly strongly support the bill. [LB73]

SENATOR JOHNSON: Thank you. [LB73]

SENATOR KARPISEK: Thank you, Senator Johnson. Any other questions? Seeing none, thank you. [LB73]

LORAN SCHMIT: Thank you, Senator. [LB73]

SENATOR KARPISEK: Do we have any other support? Anyone in support of LB73? Seeing none, do we have any opposition? Welcome. [LB73]

GREGORY HOSCH: Mr. Chairman, Senators, my name is Gregory Hosch, G-r-e-g-o-r-y H-o-s-c-h, from Omaha, Nebraska, general manager of Horsemen's Park. You know, I've been kicking this around since I heard this was going to be introduced back in November, then it was introduced, and I keep wondering how I was going to testify on this--neutral, against, for. And while I'm appreciated...appreciative that Senator McCoy wants to help horse racing, you know us in horse racing, if we're going to bet on a horse race the first thing we do is get out the Daily Racing Form and check somebody's past performances. So if you go back two years ago, we had a bill in the Legislature that would have allowed us to deviate from the law as it is now. We could have run our races at another racetrack, pass some on to another racetrack. And Senator McCoy voted against that. Last year we had a bill that actually passed that would have allowed historic horse racing machines at the racetracks, which would be

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the shot in the arm that we all need, and he led the charge against it. So now I sit here and look at it and I go, is there an ulterior motive to why he's trying to help us all of a sudden? You know, in racing, if there was a horse that had a reversal of form like this, the stewards would immediately send him to the test barn, no doubt about it. (Laughter) And so I'm trying to figure this out because he's brought forward this bill that we've sent through the Racing Commission a couple of changes to the bill that we think would be more palatable to all of us, and he doesn't want any help. He has not contacted the horsemen, the breeders, any of the racetracks or the Racing Commission and sought any input on a bill that he says is going to help horse racing, which I don't think it will. So Horsemen's Park was built under the premise that we had to run one live day a year. That's what the law said and that's the way the law is. The law says now if a racetrack goes out of business, as it said at that time, that some days would come off the mandated number of days that we had to run. Right now, the way this bill sits, if, God forbid, Fonner Park or Columbus even go out of business, that assigns 49 days to Horsemen's Park, which is absolutely not physically possible to do. We have 86 stalls. We're landlocked all the way around us: We have a floodway, we have a junkyard, we have a dump, and Q Street. We can't build more stalls. It takes 1,000...at least 1,000 stalls to run a 49-day race meet and we have 86. So we weren't built to have a 49-day race meet. And to kind of sum it up the way I see this bill, I can get behind the one day or whatever, but somewhere there has to be something in it that says that the Racing Commission has the authority to deviate from the 49 days if they think it's in the best interest of horse racing and all the people involved agree--the horsemen, the breeders, the tracks. But this says 49 days, that's it forever. Let's just say that it got dumped on Horsemen's Park. We can't run 49 days; we're out of business. Let's say somebody comes forward two years from now after we're all closed and wants to open a racetrack and run 14 days. Can't do it; got to run 49 days, unless they come back to you guys. I just don't think that the Legislature should mandate how many days we have to run. We run for profit in order to keep live racing. We're all nonprofit entities, so we got to put the money back into the industry. And we'll figure out what's best. We'll figure out if it's 49 days, 62 days. He was a little misspoken on Columbus. Columbus didn't apply for days. Seventy-two days was the minimum going into this year. Columbus' was...minimum days were 23. The Platte County Ag Society did not apply for days. Their 23 days came kind of came off, so 49 days is the total. So anyway, unless something happens to this bill, I can't support it unless the Racing Commission is given the authority to actually regulate horse racing. Thank you. [LB73]

SENATOR KARPISEK: Thank you, Mr. Hosch. Any questions? Senator Coash. [LB73]

SENATOR COASH: Thank you. Mr. Hosch, under the current formula, what did you say were the total number of days required if nothing changes between all? [LB73]

GREGORY HOSCH: Well, originally, if I could, Senator, I'll back up to the original way that the law was written. The law was written back in...when simulcasting first started

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and the total number of days was 180 days was what had to be run in the state. If a track came...went out of business, which Ak-Sar-Ben was the first one, 70 percent of their 1988 dates came off of the 180-day total. And then the State Fair Park went out of business and Atokad went out of business and their days came off, and it kept getting whittled down to where it was 72 days for the last few years has been the number of days. When Columbus didn't apply, their 70 percent of the days that they had to run of 1988 is 23, so that dropped it to 49 and that's where we're at now. [LB73]

SENATOR COASH: So we're at... [LB73]

GREGORY HOSCH: With or without this bill, 49 days is what we'll have to run next year. [LB73]

SENATOR COASH: Okay. Do you...the number of days aside, do you think it's better to keep working a formula or would you prefer to just see a number of days that we can negotiate? [LB73]

GREGORY HOSCH: It's... [LB73]

SENATOR COASH: What's the best mechanism to determine this? [LB73]

GREGORY HOSCH: Well, I think...I think if the Racing Commission has the authority to regulate it, if it said 49 days was the minimum but the Racing Commission could deviate, I mean you're looking for some protection for the horsemen, although the horsemen control simulcast rights and they, you know, they can stop a track from simulcasting if they can't come up with an agreeable contract. But next year, we're going to have to sit down and, 49 days, we're going to have to hammer that out. I just think that we need to be able to deviate from that. [LB73]

SENATOR COASH: When... [LB73]

GREGORY HOSCH: Personally, if I sit...I'm kind of in a...we call it tight quarters in racing if you're trying to get up. I'm kind of in tight quarters here because the tracks that I represent are owned by the horsemen. The horsemen absolutely want as many days as they can and they don't want to see anything change from the way they have it now because we have to have 49 days. So while I think 49 days is doable, if we lose Fonner Park then it's not doable, so...at this point. If you want to give us \$10 million, we'll go out and finish this racetrack out here in Lincoln. (Laugh) We'll take the 49 days, but... [LB73]

SENATOR COASH: When you say... [LB73]

GREGORY HOSCH: ...I really...I mean I have mixed emotions. I would like to see that the industry polices themselves and we run the amount of days that are manageable

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through all the racetracks. So I guess... [LB73]

SENATOR COASH: When you...you've mentioned a couple times you'd like to see the Racing Commission given some latitude to deviate. Can you be more specific? Do you mean deviate above or below? [LB73]

GREGORY HOSCH: Either way,... [LB73]

SENATOR COASH: Either. [LB73]

GREGORY HOSCH: ...if whether it's...they have the...we can run as many days as we want, so we can deviate above. So I guess I'm saying below. If we pounded out a race season and 47 was the right amount of days and maybe it was 27 at Fonner Park and it was 16 at Columbus and 7 at Horsemen's Park, I mean that's doable, but... [LB73]

SENATOR COASH: Okay. [LB73]

GREGORY HOSCH: ...they have to be able to...we have to have some latitude in how we assign the days, and we don't have that now. [LB73]

SENATOR COASH: Okay. I understand. Thank you. [LB73]

SENATOR KARPISEK: Thank you, Senator Coash. Any other questions? Senator Krist. [LB73]

SENATOR KRIST: How...given the present situation, how would...suppose that the State Fair decided that we could actually do what we're supposed to do and entertain families with horse racing at the Fairgrounds, a novel concept. [LB73]

GREGORY HOSCH: Yeah. [LB73]

SENATOR KRIST: But suppose they did that. How would that affect the number of days that you would have to run? It's still the same park. [LB73]

GREGORY HOSCH: That would be added in to the...whoever, you know, they would come forward and apply for days. [LB73]

SENATOR KRIST: So it's not the number of facilities; it's actually the availability of the... [LB73]

GREGORY HOSCH: Just the number of days, correct. [LB73]

SENATOR KRIST: Okay. Thank you. [LB73]

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SENATOR KARPISEK: Thank you, Senator Krist. Any other questions? Seeing none, thank you. [LB73]

GREGORY HOSCH: Thank you. [LB73]

SENATOR KARPISEK: Do we have any further opposition? Anyone neutral? Welcome. [LB73]

PAT LOONTJER: (Exhibits 1, 2, and 3) Thank you. I'm Pat Loontjer, P-a-t L-o-o-n-t-j-e-r. I live at 2221 South 141 Court in Omaha. And I didn't check neutral. I wasn't sure, to tell you the truth. I've never testified neutral before. (Laugh) I'm the director of Gambling with the Good Life. We've been in existence since 1995. We have never opposed anything...any form of gambling that was existing, not that we necessarily like it or agree with it. It's just it's almost impossible to roll anything back. And we have never opposed horse racing. In fact, I personally wish that they would run more days. I'm not real familiar with this bill. We were not consulted either, so we're kind of on the same page as Greg on this one. But my concern is that if we do take it down to one day, my question to you, and that is allowable now, is are we going to be running a sham of a race at these facilities that...like was run in...at the State Park on January 7, which was a 13.4-second race so that they could hold their simulcast license for one more year. So I don't know if you've all read the stories, but I brought you copies of that and that was Mr. Hosch's idea that they should be allowed to do that, because I don't believe it's...that they're really interested in the horses. I think it's just to hold the gambling license, whatever it takes. And if it takes a 13-second race to run three poor horses on a frozen track and you had to bring in the starting gate from Columbus to do it just so you could extend...legally call it a race and then extend that permit to do simulcast for another year, I think that's a mockery and I think that's an abuse of the system. It's not something that's helping the horses. It's keeping simulcast alive for another year at a facility that's not even...not even built yet. I can understand Columbus' dilemma. According to the reports that I've read, Columbus lost \$130,000 in 2012, which they said was an improvement over the \$180,000 that they lost in 2011. So I think we need to face reality that horse racing is a dying industry and it supposedly is being kept alive by simulcast, which I wish somebody would do some checking and find out where the money from simulcast goes, because they're running those facilities 24/7. They're only racing these poor horses a few days a year. Where's the money? They're no longer a charity. They don't give money away like they did when they got their tax exemption at Ak-Sar-Ben where they don't pay taxes on the first \$10 million or 2.5 percent from \$10 million to \$73 million. When that exemption was given to them, it was at a time when Ak-Sar-Ben was run by the Knights of Ak-Sar-Ben and the profits all went to buy ambulances for communities and fire equipment and scholarships, and I don't know of any of that being done in the current administration of simulcast. So where is the money going? Why can't we keep these horses running? And to go down to one day, which is,

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you know, according to Senator McCoy, is already being done, and then do it like they did it for 13 seconds, it's just not acceptable. And the formula was put into place, and I'll give you a copy of the formula, for a reason, and yet we're talking about that they want the ability to manage it on their own. And then when the question was asked, are you talking about going higher, well, no, they don't need (laugh) any rules changed to go higher but they do need some rules to take it lower. How low do you want to go and still hold your simulcast license? I believe, personally, they only want to hold the simulcast license until they can get historic horse racing machines in, which we call horse slots, or until the constitution is changed and full-blown slot machines are coming in; that they would be the first natural ones to be given the license to do that type of gambling. So that's our concern. We do have an Attorney's Opinion that we've asked for and he says this would appear...this bill would appear to significantly undermine the whole premise under which simulcast wagering was sold to the voters. It would enable most tracks to operate as de facto off-track betting parlors. In theory, new tracks could, authorized around the state that would run 1 race day a year, offer simulcast wagering the other 364 days. In light of the sham horse races that were run, the race was run recently in Lincoln at the site of the former State Fair Park, this scenario is not far-fetched. So I just think we really need to look at this carefully and see exactly, you know, who is it good for. [LB73]

SENATOR KARPISEK: Okay. [LB73]

PAT LOONTJER: And to tell you the truth, I'm not sure. [LB73]

SENATOR KARPISEK: Thank you. Senator Coash. [LB73]

SENATOR COASH: Thank you, Chairman. Pat, do you want to change your testimony to opposition? I know you got up... [LB73]

PAT LOONTJER: I... [LB73]

SENATOR COASH: ...and you said neutral, but nothing you said was neutral. And if it's for or against, that's fine. I just...it's kind of my thing I see in these committees. This isn't on you but I see it all the time. People will say, well, I'm neutral, but then they love on the bill or hate on the bill. I just want to give you an opportunity, if you want to think through your testimony, have the record reflect you're opposed, you're opposed; have it reflect if you're support, support. I just didn't...didn't sound neutral. [LB73]

PAT LOONTJER: Like I say, I've never come and testified neutral before. We've studied this bill and, to tell you the truth, I'm just confused about it. I'm not sure who this is in favor of, if it's going to benefit the simulcast industry or if it's going to benefit the horses. If it's going to benefit the horses, I would be in favor of it. If it's going to benefit simulcast, I would not be. [LB73]

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SENATOR COASH: Could you decide and then... [LB73]

PAT LOONTJER: (Laugh) [LB73]

SENATOR COASH: No, I'm...decide and send us a letter where Gambling with the Good Life is on this. [LB73]

PAT LOONTJER: Okay. [LB73]

SENATOR COASH: It would be helpful for me. [LB73]

PAT LOONTJER: I will do that for you. [LB73]

SENATOR KARPISEK: Thank you, Senator Coash. Senator Lautenbaugh. [LB73]

SENATOR LAUTENBAUGH: Thank you, Senator Karpisek. Ms. Loontjer, I've heard you make this statement before that you don't believe the horsemen care about horse racing. What would they have to do, in your mind, to demonstrate that they care about horse racing? [LB73]

PAT LOONTJER: No, I didn't say that the horsemen didn't care. I almost see it as two different entities, that there is those that run the simulcast and those that run the horses or at least have the mentality. And I would think that you'd have...if you wanted to benefit the horses, you'd run more races. [LB73]

SENATOR LAUTENBAUGH: Do you have any understanding of the economics of what it costs to run races? [LB73]

PAT LOONTJER: Apparently it's very, very expensive. [LB73]

SENATOR LAUTENBAUGH: But you don't really know per horse or per race what it costs to do this? [LB73]

PAT LOONTJER: No. No. [LB73]

SENATOR LAUTENBAUGH: But you just think they should do more of it. [LB73]

PAT LOONTJER: But if the horse racing industry cannot exist on its own, why should we subsidize it? It's already been subsidized extensively. Why? The other bills that are going to be introduced today is going to be, in our estimation, more subsidies. [LB73]

SENATOR LAUTENBAUGH: What are these subsidies you're referring to? [LB73]

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PAT LOONTJER: The tax exemption and simulcast. I consider simulcast, given to the horse racing industry, as a bailout; as, you know, give us this and this will give us...this will produce live racing, this will support live racing. And it apparently didn't work. [LB73]

SENATOR LAUTENBAUGH: And that is your definition of a subsidy, letting the tracks conduct simulcasting? [LB73]

PAT LOONTJER: Well, it's not a subsidy from the government, but it's giving them additional leeway that no other businesses get. Nobody else can do simulcast in the state or conduct gambling to support... [LB73]

SENATOR LAUTENBAUGH: Do you know, has anybody else asked to do simulcasting? [LB73]

PAT LOONTJER: I don't know that. [LB73]

SENATOR LAUTENBAUGH: This tax that they're exempt from that you list as another subsidy, what tax is that? [LB73]

PAT LOONTJER: Well, I'm going to present that at the next hearing, but it's the \$10 million exemption. [LB73]

SENATOR LAUTENBAUGH: For pari-mutuel wagering? [LB73]

PAT LOONTJER: Yes. [LB73]

SENATOR LAUTENBAUGH: Are you aware of other groups that unfairly pay the pari-mutuel tax while the horsemen are exempt from it? [LB73]

PAT LOONTJER: No. [LB73]

SENATOR LAUTENBAUGH: Matter of fact, aren't they the only ones who pay this tax? [LB73]

PAT LOONTJER: I suppose we can discuss that at the next bill. [LB73]

SENATOR LAUTENBAUGH: Well, I'm curious now as you're here presenting your opinions on this. Do you know who actually pays pari-mutuel taxes? [LB73]

PAT LOONTJER: I presumed it was the horse racing industry. [LB73]

SENATOR LAUTENBAUGH: Anyone else? [LB73]

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PAT LOONTJER: You tell me who. [LB73]

SENATOR LAUTENBAUGH: Well, I guess what I'm getting at is if you're calling this a subsidy because the first \$10 million is exempt, and we're talking about a tax that no one else pays, how is that a subsidy to these folks? [LB73]

PAT LOONTJER: Well, is there any other industry that gets a \$10 million tax exemption? [LB73]

SENATOR LAUTENBAUGH: So if we exempted, say, the implement dealers from the pari-mutuel tax, would you consider that more fair as well? [LB73]

PAT LOONTJER: So you're exempting the...say that again. [LB73]

SENATOR LAUTENBAUGH: Well, I mean I'm just...I want to pin this down a bit as to what these subsidies are that we keep hearing about year after year after year. So my question is, if you're saying it's a subsidy to have the first \$10 million exempt,... [LB73]

PAT LOONTJER: Uh-huh. [LB73]

SENATOR LAUTENBAUGH: ...and then the only ones that pay it are the horsemen, this industry, where is the subsidy? The exemption? [LB73]

PAT LOONTJER: Now you're saying that they pay it. [LB73]

SENATOR LAUTENBAUGH: After the first \$10 million. [LB73]

PAT LOONTJER: Well, after the first \$10 million they pay 2.5 percent from \$10 million to \$73 million. [LB73]

SENATOR LAUTENBAUGH: Okay. [LB73]

PAT LOONTJER: It's much lower than any other sales tax that any other business pays. [LB73]

SENATOR LAUTENBAUGH: And you understand this is not a sales tax, though, correct? This is the pari-mutuel wagering tax. [LB73]

PAT LOONTJER: You know. You're an attorney; I'm not an attorney. [LB73]

SENATOR LAUTENBAUGH: Well, I mean we frequently have the benefit of your opinions on these bills, so I was assuming that you were kind of up on this kind of thing.

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Going back to the simulcasting, I think a prior witness testified that the horsemen control the simulcasting. Did I hear Mr. Hosch correctly? [LB73]

PAT LOONTJER: I heard that too. That surprised me. [LB73]

SENATOR LAUTENBAUGH: But you're of the opinion that the horsemen would want more racing,... [LB73]

PAT LOONTJER: Uh-huh. [LB73]

SENATOR LAUTENBAUGH: ...but the horsemen that control the simulcasting won't allow it? [LB73]

PAT LOONTJER: It's not happening. They're the ones with the money. I don't know, what are they doing with their money with simulcast? [LB73]

SENATOR LAUTENBAUGH: Have you ever inquired as to where the money goes from simulcast? [LB73]

PAT LOONTJER: I'd love to know. How do you find that out? [LB73]

SENATOR LAUTENBAUGH: Well, have you ever asked anyone? [LB73]

PAT LOONTJER: Yes, as a matter of fact I have but haven't... [LB73]

SENATOR LAUTENBAUGH: And who is that? [LB73]

PAT LOONTJER: No, I'd rather not say, but I've inquired and I don't know how we...I don't know, I haven't located where that information is, what is the amount brought in annually by simulcast and how is it distributed. [LB73]

SENATOR LAUTENBAUGH: Was it a government entity that you sought this information from? [LB73]

PAT LOONTJER: It's both. [LB73]

SENATOR LAUTENBAUGH: The Racing Commission perhaps? [LB73]

PAT LOONTJER: No. I've read their... [LB73]

SENATOR LAUTENBAUGH: But they might have a handle on this. [LB73]

PAT LOONTJER: ...I've read their...I've gone on their Web site and I've read their

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reports but... [LB73]

SENATOR LAUTENBAUGH: Now you were critical of the fact that they ran one race in the Lincoln market this year, and you understand they're trying to build a new track. [LB73]

PAT LOONTJER: Yes. [LB73]

SENATOR LAUTENBAUGH: And you were critical of the fact that they're just trying to maintain the simulcast in the interim. [LB73]

PAT LOONTJER: Correct. [LB73]

SENATOR LAUTENBAUGH: Do you have another plan for how they would pay for this new track without maintaining the simulcasting? [LB73]

PAT LOONTJER: No. [LB73]

SENATOR LAUTENBAUGH: Okay. But to be clear, you're not here opposing horse racing. [LB73]

PAT LOONTJER: No. [LB73]

SENATOR LAUTENBAUGH: Okay. And again, if you can remember who you've requested this information from as far as where this money goes, I think the committee would like to know. Because I got the distinct impression that you were implying that the money was not going where you wanted it to go or not to pay for live racing, and somehow there's this group of horsemen, that aren't the same horsemen, that don't want to see live racing. So I think we would all benefit from knowing what you found out and who you requested this information from. [LB73]

PAT LOONTJER: I guarantee if I can find out, you'll be the first to know. [LB73]

SENATOR LAUTENBAUGH: Well, no, I just want to know who you asked it from...of, I mean, because that would be beneficial because we could say, well, no, Ms. Loontjer, you shouldn't have asked some guy, you should have asked the Racing Commission because they have a handle on this kind of thing, something like that. So it would just be helpful to know. [LB73]

PAT LOONTJER: Okay. [LB73]

SENATOR LAUTENBAUGH: I guess I was just trying to get at the basis for your opinions. [LB73]

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PAT LOONTJER: I'm sure you were. [LB73]

SENATOR LAUTENBAUGH: Thank you. [LB73]

PAT LOONTJER: Thank you for your questions. [LB73]

SENATOR KARPISEK: Thank you, Senator Lautenbaugh. Any further questions? Seeing none, thank you. Further neutral testimony? Welcome. [LB73]

LYNNE SCHULLER: Hello. Lynne Schuller, L-y-n-n-e S-c-h-u-l-l-e-r, with the Nebraska Horsemen's Benevolent Protective Association, testifying actually neutral on this bill. The HBPA board met and could not come to a consensus on the particulars of the bill, so they thought it was more appropriate to have the tracks themselves weigh in on what they felt would best suit their needs. I do want to correct the record. Senator McCoy's office did call the HBPA initially when they were talking about this bill. We took a step back and said, you know, it's probably more proper for the tracks and for the Racing Commission to work on it. I do know the Racing Commission sent a couple of suggestions for how to make the bill better and I don't believe they received a response. So that's why we're unable to take a position on the bill. I would like to address some of the accusations made, if I may. [LB73]

SENATOR KARPISEK: You may. [LB73]

LYNNE SCHULLER: Number one, how you can call a race a sham when those races of that length are run every single day in this country. Brian Becker is here from the quarter horse track. He runs those races every year. It cost us a lot of money to run that race. We didn't ham scam bring our gate over from Columbus. We own that gate. We paid six figures for that gate. The HBPA owns two of the four racing jurisdictions in the state of Nebraska and how anyone can say that the horsemen don't want live racing in this state is making a gross mischaracterization of the state of racing today. We're the only HBPA in the country that owns their own racetracks. We've been struggling to stay alive and struggling to succeed despite the gross inaccuracies spread by that particular group each and every day. I would love the luxury of making wild accusations without having to, oh, I don't know, back it up with facts. But unfortunately, I have to back up what I say. I'm very upset that you can come up here in neutral capacity and testify and make those kinds of misstatements about a group when you don't know what you're talking about. It's extremely expensive to run live racing, but that's the only way HBPA members can make a living is through live racing. The last thing they want to do in this world is to cut live days. It pains them every time they have to make an adjustment in that arena. Unfortunately, to be able to save the Lincoln market and to be able to have that facility, they had to do it. They had to cut those live days because they no longer had a facility to run. It takes two years, at a minimum, to build a new facility. And the

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university was gracious enough to allow us to run that live day this year so that we meet our minimum requirement. This bogus legal opinion they've got that this bill would somehow allow us to put OTBs all over the state, we can do that now. The minimum now is we have to run one live day. So if they think it's so cheap and easy to run that, what they call a sham race, we'd be doing it already. It's extremely expensive to do it and the only reason we ran that length of a race this year was because it was a safety issue. The ground was frozen and the university is razing that location in order to build Innovation Campus. That was the only date available to do it. And so Greg, under a lot of pressure, brought graders down, harrowed it up, made sure that it was safe so the horses weren't injured, so riders weren't injured, and we got that race off without a hitch, which I'm very proud of. It wasn't some back room, middle-of-the-night deal Greg came up with. You know, we had discussed this for months about how to address this problem. And believe me, if they think this is a sham and a joke and it's not legal, they'd be suing us already because they've done it a lot. We have the distinction of being the nonprofit that's been sued the most times and we've been sued by the exact same group every time. So sorry about that rant; just had to clarify some things. [LB73]

SENATOR KARPISEK: Thank you, Ms. Schuller. Senator Schilz. [LB73]

SENATOR SCHILZ: Thank you, Senator Karpisek. Ms. Schuller, thank you so much for coming in today. [LB73]

LYNNE SCHULLER: Sure. [LB73]

SENATOR SCHILZ: You had mentioned first that you had some ideas on how to make the bill better. Do you have any of those recommendations for us today? [LB73]

LYNNE SCHULLER: Well, we had discussed what Greg had talked about, putting the power of the final determination of the days with the Racing Commission. I'll admit, when we discussed it further, I have a board member here now, Margaret Landis, who mentioned that perhaps what we should have done was taken the initiative and brought legislation forward this year to do that instead of relying on Senator McCoy's office to do it for us. That might have been the better way to go. [LB73]

SENATOR SCHILZ: Okay. And then, you know, back to the one race that was ran and, you know, for there not being any interest in horse racing or not being... [LB73]

LYNNE SCHULLER: It was packed. [LB73]

SENATOR SCHILZ: It was packed. How many people would you say were there? [LB73]

LYNNE SCHULLER: It was several hundred. [LB73]

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SENATOR SCHILZ: Did you have to advertise a lot for that? [LB73]

LYNNE SCHULLER: We didn't advertise at all. That was the agreement we made with the university was that we would not do any advertising, because they didn't want to give the false impression that we were going to be open for the remainder of the year for live racing, which we're not. So in consideration to them, we agreed that we would not do any advertising. Greg did respond when the Lincoln Journal Star called him because we had to get permission from the Racing Commission, obviously, to set the live day. [LB73]

SENATOR SCHILZ: Uh-huh. [LB73]

LYNNE SCHULLER: So it was part of the public record that we were going to be running the day. So we did respond to interview requests, but we did no advertising whatsoever. And like I said, I truly do appreciate the university's willingness to let us do that. That was outside the bounds of our contract and there was no obligation on their part at all to do that for us. So I do really appreciate that they did that. [LB73]

SENATOR SCHILZ: Well, Ms. Schuller, I can tell you, having family members that have raised and trained and ran horses at Fonner Park and Atokad and Columbus and all that, it was...it's very important to my family and I'm going to do everything in my power to help you guys out and make sure that there's... [LB73]

LYNNE SCHULLER: Thank you, Senator. We appreciate it very much. [LB73]

SENATOR SCHILZ: ...horse racing in the state of Nebraska... [LB73]

LYNNE SCHULLER: Thank you. [LB73]

SENATOR SCHILZ: ...for the foreseeable future. Thank you. [LB73]

SENATOR KARPISEK: Thank you, Senator Schilz. Senator Johnson. [LB73]

SENATOR JOHNSON: Thank you, Senator Karpisek. Can you tell me little bit more about the Racing Commission itself, who makes that up... [LB73]

LYNNE SCHULLER: Yes. [LB73]

SENATOR JOHNSON: ...and the election? I'm a freshman at this so... [LB73]

LYNNE SCHULLER: Absolutely. They are a five-member commission. They were recently expanded from three members to five members to give more latitude for

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decisions. There were some things that came up that...where somebody had to recuse themselves. So five is a more manageable number to make decisions. They meet, oh, every couple of months. The State Racing Commission's Office is actually in the former Whitehall Mansion up in...up by Wesleyan University in Lincoln. They have an executive director, Tom Sage, who's here today. And they are the ones who are responsible for really all of the legal aspects of horse racing. So when the live meets start, they're responsible for licensing all 1,000 members of the racing community as well as licensing workers at the racetrack, that type of thing. So in addition to those 1,000 members, they also have to license the hundreds of members who actually work at the facilities. They all have to be licensed, wait staff, everybody. They are also responsible for security and for investigations at the racetracks. So after live races are run, a certain number of horses are taken to the test barn. They have blood and urine drawn, and the Racing Commission is financially and legally responsible for sending those samples in to see if there's an overage of a certain drug or if there's a violation. They're responsible for all hearings, including financial hearings. If you don't pay your bills at the racetrack, the Racing Commission can take your license away from you so that you can no longer do business. They have a wide variety of responsibilities and they do it for...I believe they get their mileage reimbursed and that's it. [LB73]

SENATOR JOHNSON: So they're primarily regulatory... [LB73]

LYNNE SCHULLER: Yes. [LB73]

SENATOR JOHNSON: ...oversight. [LB73]

LYNNE SCHULLER: Yes. [LB73]

SENATOR JOHNSON: And you're comfortable that they would have the right information to be fair to all parties in order to decide how many days races should be held or...? [LB73]

LYNNE SCHULLER: Yeah, we can't operate unless we send all of that information in to the Racing Commission. Tom works very closely with our finance manager, Shelly Hosch, to make sure that those numbers are the same. They reconcile those numbers I believe monthly, if not quarterly, to make sure that the simulcast and all the breaks are correct. The formula, essentially we're on a profit-sharing model. The HBPA shares revenues with all of the racetracks. So when the money comes in from simulcasting and from live racing, that then has to be split back out to the tracks who are sending the signals, and then it has to be split among the racetracks and the HBPA. It's a very complicated formula and I pray every day that Shelly is not in a car accident because we'd be in big trouble. She then, after she reconciles all of that financial information, she then works with the racetracks to make sure her numbers are the same as theirs, and then she communicates with Tom at the Racing Commission to make sure that he

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agrees that those numbers are correct. So he's got every number we have and then some. [LB73]

SENATOR JOHNSON: Thank you for the explanation. [LB73]

LYNNE SCHULLER: Sure. [LB73]

SENATOR KARPISEK: Thank you, Senator Johnson. Any further questions? Seeing none, thank you. [LB73]

LYNNE SCHULLER: Thank you. [LB73]

SENATOR KARPISEK: Do we have further neutral testimony? Welcome. [LB73]

THOMAS SAGE: Mr. Chairman, Senators, thank you. My name is Tom Sage, S-a-g-e. I'm the executive director of the Nebraska Racing Commission and I am testifying neutral on the bill. More importantly, I wasn't going to testify but I have a couple questions or answers I would like to give out to the committee. Ms. Schuller did a great job of explaining the race in Lincoln. That race was sanctioned by the Racing Commission. It was inspected by myself personally. This was a racetrack. We took tests, horses' blood and urine. Anything we would have done at any other racetrack was conducted that day. As far as why would you want to do that, the Lincoln market is so important to horse racing in Nebraska. Between 20 and 25 percent of the handle, that's from live racing and simulcasting, is done here, is wagered in Lincoln. Last year we wagered \$77 million. But we're a dead industry. That's roughly, what, \$15.5 million or so that was bet here in Lincoln. Lincoln is very important. Senator Johnson, if you ever want to know more about the Racing Commission or racing, would love to sit with you in your office and discuss it. Feel free to give us a call. [LB73]

SENATOR JOHNSON: Thank you. [LB73]

TOM SAGE: I hope that answered a couple questions and would take any more if anybody had any. [LB73]

SENATOR KARPISEK: Thank you, Mr. Sage. Any other questions? Can you tell us how the members of the Racing Commission are chosen? [LB73]

THOMAS SAGE: Yes, they're all...there's one from each legislative district chosen by the Governor's Office, there's two at large, no more than two can come from the same legislative district. Our chairman is Dennis P. Lee. He has been associated with racing since he was a little boy. I think he's been on the commission since 1988, very knowledgeable of not only the laws but the industry in our state and in the nation. Very comfortable with him being our chairman. Obviously, anytime I have a question, he's my

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first call. [LB73]

SENATOR KARPISEK: Very good. Thank you. Any other questions? Seeing none, thank you. [LB73]

THOMAS SAGE: Thank you. [LB73]

SENATOR KARPISEK: Do we have any further neutral testimony? Seeing none, Senator McCoy has returned to close. [LB73]

SENATOR McCOY: Thank you, Chairman Karpisek. I thought maybe it might be a good idea if I did close, in light of a few things that were mentioned. First off, I wouldn't purport the race in Lincoln that's been talked about to be anything but what it was, and I think that's a completely legitimate and legal race that followed the letter of the law, as it should have. You didn't hear me talk about it because that's my belief about it. You know, as many of you know, we've talked about issues surrounding horse racing in particular, another aspect of it that you'll hear later on this afternoon, and we as members of the Legislature I think can agree to disagree on a number of things. LB73 is not a gotcha piece of legislation. It's nothing more than what I purported it to be when I opened and that is, in the heat of many moments, not just last session but in previous sessions, I told Senator Lautenbaugh in particular that if ever given the opportunity my office would make good on what I have said many times on the microphone up in the Chamber and that is that we would look for opportunities to help the horse racing industry if we could. And that's what LB73 is to me. It's a...what I believe to be a stopgap measure to help the Columbus track. If the committee would deem there to be some other way to do that, I think that would be great. This just happened to be what we're attempting to do. If you can ask...if you were to ask folks, someone from my office has been I think at every Racing Commission meeting that I'm aware of for quite a number of months now, in fact I think going on a year now, looking for opportunities to try to help out where we can. I try to be a person of my word, as much that I can be. We may agree to disagree at times, but when I said we would work hard to try to find a solution to help the industry that's within the law and that's constitutional, that's what we're doing. I do think it important, though, and really the reason I came back to close is it was mentioned earlier by someone that perhaps, you know, they were never consulted or never talked to or whatnot concerning this bill. I appreciate Ms. Schuller coming before you...Ms. Schuller coming before you and talking about that we did in fact talk to them, and we did. We also talked to the Racing Commission as well. We also talked to the lobbying entity that represents Horsemen's Park about this legislation quite a number of times, so I felt that important to correct for the record, if I might. I think that all these issues are important and I think that going forward it's important, if it's possible, to find ways to help the industry. I think this is one way, obviously, as I mentioned. You'll discuss some other measures later on this afternoon that individuals may think may help the industry as well, and I certainly respect those as well. But I think

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under the confines of the formula that this is a way that I believe would particularly help the Columbus track, and you've heard some testimony to that effect. With that, I'll finish. [LB73]

SENATOR KARPISEK: Thank you, Senator McCoy. Do we have any questions? Seeing none, thank you very much. [LB73]

SENATOR McCOY: Thank you. [LB73]

SENATOR KARPISEK: That will close the hearing on LB73. We will now open the hearing on LB642 by Senator Mello. And I think that his...let's give him just a second. I think that Senator Mello was not opening anyway. I think staff would be. Welcome. [LB73]

TREVOR FITZGERALD: (Exhibit 4) Good afternoon, Senator Karpisek. Good afternoon, Chairman Karpisek, members of the General Affairs Committee. For the record, my name is Trevor Fitzgerald, T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d, legislative aide for Senator Heath Mello. Senator Mello represents the 5th Legislative District in south Omaha. LB642 is being introduced on behalf of a major employer in Nebraska and the Omaha metropolitan area, Omaha Exposition and Racing, which operates racetracks in Omaha and Lincoln. [LB642]

SENATOR LAUTENBAUGH: Why don't we...can we take a minute? [LB642]

SENATOR KARPISEK: Yeah, let's. [LB642]

TREVOR FITZGERALD: Oh. [LB642]

SENATOR KARPISEK: Let's hang on just a second, Mr. Fitzgerald. [LB642]

TREVOR FITZGERALD: Sorry. [LB642]

SENATOR KARPISEK: That's all right. Don't be sorry. [LB642]

TREVOR FITZGERALD: Had to sprint because I thought the order was in a different one so... [LB642]

SENATOR KARPISEK: Well, we understand. Catch your breath. [LB642]

SENATOR KRIST: He's going to make us stay here till 5:00 anyway, so don't worry. [LB642]

TREVOR FITZGERALD: Hopefully not. All right, thank you, Senator. [LB642]

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SENATOR KARPISEK: Anytime you're ready. [LB642]

TREVOR FITZGERALD: Omaha Exposition and Racing, which operates racetracks in Omaha and Lincoln. While business at these tracks is the busiest during live racing season each July, the majority of racing revenue comes from year-round simulcast wagering. As the committee no doubt knows, in Nebraska the only legal place to wager on horse racing is at a licensed racetrack. Since the inception of the Internet, however, Web sites have been accepting pari-mutuel wagers on-line, in violation of many state laws. These on-line wagering systems are often operated using what is known as advanced-deposit wagering, where individuals set up an on-line account with a set amount of money in the account, say \$100. The account holder can then immediately start placing wagers on horse races with wagers debited from and payouts credited to their account. These on-line advanced-deposit wagering systems not only violate Nebraska law, but they also harm existing racetracks who rely on simulcast racing to keep their operations going. In other states where racetracks have faced intense competition from these on-line wagering systems, the horse racing industry has been able to detour this illegal behavior by increasing criminal penalties. Currently, conducting pari-mutuel wagering outside of a licensed racetrack is a Class I misdemeanor. LB642 would simply provide an increased penalty for operating an advanced-deposit wagering system of pari-mutuel wagering outside of a licensed racetrack so that accepting on-line wagers from Nebraska residents in this manner would be a Class IV felony. Senator Mello introduced identical legislation last session which was advanced by the committee to General File, but the bill died at the end of session because it did not receive a priority designation. After the bill was introduced, our office was contacted by the operators of the quarter horse track located in Hastings, Nebraska. Apparently, these on-line wagering systems are being used in other states for quarter horses as well and not just thoroughbreds. The current language in LB642 is written only to apply to on-line thoroughbred racing. The committee should have received a copy of AM172 which would amend the new penalties to apply to all on-line horse racing systems. There are representatives from Horsemen's Park and the horse racing industry who will testify behind me, but otherwise I would be happy to answer any questions. [LB642]

SENATOR KARPISEK: Thank you, Mr. Fitzgerald. I think we will ask for proponents, okay? Thank you. [LB642]

GREGORY HOSCH: I've got a handout this time. [LB642]

SENATOR KARPISEK: All right. Welcome back. [LB642]

GREGORY HOSCH: (Exhibit 5) Hi. Thank you, Mr. Chairman, Senators. Gregory Hosch, G-r-e-g-o-r-y H-o-s-c-h, general manager of Horsemen's Park. I'm from Omaha,

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Nebraska. I'm testifying in favor of LB642. You can see by the handout, these on-line ADWs are specifically targeting Nebraska residents, illegal in the state of Nebraska. I received this in an e-mail and the Daily Racing Form puts it in their publications. It's expressed that TwinSpires does it as well, which is owned by Churchill Downs. They've been sent letters by the AG's Office. The AG's Office says it's kind of tough to police, which, you know, I guess it is, but I made the statement that if I did it at Horsemen's Park, you'd be knocking on my door the next day. And this actually kind of...Arizona has done it, Iowa has done it, and these ADWs tend to stay out of there. Apparently Texas has done it. The ADWs are suing Texas, saying that it's, you know, some kind of a commerce law or something that they're breaking. You know, federally, horse racing is the only legal on-line wagering platform out there. You can't, you know, you can't do poker or anything like that. It is legal. But whether it's legal federally, not legal in the state, at least this way these Xpressbet, TwinSpires, the other ADWs, and there's a number of them out there, would have to come to the Racing Commission and, again, let the Racing Commission regulate our industry. They would have to get a license just like we have to get a license to simulcast and run live. And so I think it gives a little bite to the...what the AG's Office could bring against these ADWs for, you know, coming into our state and poaching our customers. If they have to get a license, then they'll have to get a...probably the Racing Commission would require them to have some sort of a contract with our horsemen and then the horsemen would get a piece of the revenue for their purses. So I'm in support of this bill and hopefully it gets out and gets passed. So any questions? [LB642]

SENATOR KARPISEK: Thank you, Mr. Hosch. Any questions? Seeing none, thank you. Next proponent. Welcome back. [LB642]

LYNNE SCHULLER: Thank you. Lynne Schuller, representing the Nebraska HBPA. We're a strong proponent of this legislation. As Greg mentioned, I was in that meeting with the Attorney General's Office. They kind of shrugged their shoulders and said there's not really a lot we can do with the way the law stands now. And Greg did ask them, well, if I open something tomorrow; oh, we'd, yeah, we'd be there getting ready to shut you down tomorrow. The problem with these ADWs is that for every dime wagered at the location at Horsemen's Park, Fonner Park, the horsemen see revenue from that, and that's the money that they make their living on. When they bet on these ADW platforms, they don't see a dime. So if there was some kind of requirement that they have to get licensed, that would be a way to stop them from taking all the revenue out of Nebraska without having to return anything back. So we would really like to see this bill advanced. [LB642]

SENATOR KARPISEK: Thank you, Ms. Schuller. [LB642]

LYNNE SCHULLER: Thank you. [LB642]

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SENATOR KARPISEK: Any questions? Seeing none, thank you. [LB642]

LYNNE SCHULLER: Thank you. [LB642]

SENATOR KARPISEK: Any further proponents? Any opponents? Welcome. [LB642]

PAT LOONTJER: Pat Loontjer, L-o-o-n-t-j-e-r, 2221 South 141 Court, Omaha, Nebraska. Okay, you'll probably debate whether it should be neutral or not. I love the first part of this bill. I agree with everything that's been said as far as stopping the expansion of Internet gambling run by different corporations that are coming into the various states, and I'd like to see that stopped. My concern with this bill is the last section that says: Nothing in this subsection shall prohibit an association or public corporation licensed by the State Racing Commission from establishing an advanced-deposit wagering system at a racetrack so long as...on and on and on. So it looks like it's giving Nebraska an exception to do this and I have serious questions about that. Why do we have an exception in there for the state of Nebraska? So I hope that you'll study that and come up with the answers. I don't know, you know? [LB642]

SENATOR KARPISEK: Okay. Thank you, Ms. Loontjer. Any questions? Senator Krist. [LB642]

SENATOR KRIST: Not a question but just a comment. What we're doing, you mentioned the word "expansion" again and I...this is going to be my session to make sure that we define what expanded gambling really is. So an expansion of...they're not doing any more horse racing or not having any more simulcasts. Somebody is just stealing the revenue out of the state and taking it someplace else. And the point I would make is in the last section of this bill, if people are going to bet, it brings the money back through a tax base to the state of Nebraska. So if you don't want people to spend money gambling, that's not going to happen in today's world because this is happening every day. The reason that they're going back, in my estimation, and we'll I'm sure exec on this later, but we're losing tax revenue because somebody is executing from outside the state and not registered. This is saying if we're going to...if people are going to gamble, then they should be bringing the revenue back to the state of Nebraska. [LB642]

PAT LOONTJER: But wouldn't that last section, and I don't know, would it allow for someone to set up an account and then bet from home or bet by phone or bet, as long as it's going into one of the existing horse tracks? Wouldn't that be off-track betting? [LB642]

SENATOR KRIST: I don't think that's a good interpretation, but as I say, we're going to have to look at it. [LB642]

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PAT LOONTJER: Okay. [LB642]

SENATOR KRIST: But again, I would say that the whole reason for that section, and we'll analyze whether those are the right words legally... [LB642]

PAT LOONTJER: Okay. [LB642]

SENATOR KRIST: ...for them for to do, to achieve what we intend. [LB642]

PAT LOONTJER: Okay. [LB642]

SENATOR KRIST: But I think the way I read it is if we're going to have these things, then we might as well have an advantage, taxpayer within a revenue base. So thanks for your testimony. [LB642]

PAT LOONTJER: Uh-huh. Yeah, so that...yeah, that was the concern, that if it's a bad idea to be allowed, interstate gambling or Internet gambling, then why shouldn't it be for the whole state? Why would Nebraska have an exception... [LB642]

SENATOR KRIST: Okay. [LB642]

PAT LOONTJER: ...and conduct it? [LB642]

SENATOR KARPISEK: Any other questions? Seeing none, thank you. Any other opponents? [LB642]

GLEN ANDERSEN: Glen Andersen, G-l-e-n A-n-d-e-r-s-e-n. I'm kind of an amateur at this, my first time here. [LB642]

SENATOR KARPISEK: Well, welcome. [LB642]

GLEN ANDERSEN: I'm an opponent of gambling pretty much in general, but a really big concern of mine is when gambling becomes available at any time, any place, and that appears to be what Internet gambling is. And I would hope that this would never become a situation where it would be Internet gambling that can be gambled, where a person can gamble at home, in school, in the hospital or wherever. And that's really the point I'd like to make. [LB642]

SENATOR KARPISEK: Thank you. Any questions? Seeing none, thank you. [LB642]

GLEN ANDERSEN: Thank you. [LB642]

SENATOR KARPISEK: Further opponents? Welcome. [LB642]

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LORETTA FAIRCHILD: Thank you. I am Loretta Fairchild, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d, and I am here representing myself. I have a Ph.D. in economics and one of my specializations is in the area of public finance, which focuses on where the government gets its revenues from and how it uses that money, and that is the source of my interest, plus the need for economically-sound legislation at all times. So I do share the questions about that final section and it seems to me that clarification needs to be made before this bill leaves here, leaves this committee to go. I believe that legislators really do need a substantial amount of clarification if they're going to be able to make a wise decision about what the impact is going to be. I'm not a lawyer either, but it seemed fairly clear that there appeared to be...and the statement that introduced it seemed to be focused on the negative effects of Internet gambling in the state and in the nation and in the world, and I certainly concur with that. And it's going to raise...it does raise, it already raises huge problems of enforcement, but I don't see anything in this bill that speaks to those enforcement problems. I don't understand how just raising the penalty is going to put any more enforcement muscle into tracking down what's happening on people's cell phones, the wagering that they're doing in the privacy of their homes. I would really like to see something like that, but I don't see how this legislation does that. And there seemed to be a presumption about taxes that would flow once this licensing takes place. Again, the notion of saying, well, we really don't want Internet gambling but let's let Nebraska have a piece of it, makes me uncomfortable if it does not have substantial clarification before it goes forward. So who actually owns the pari-mutuel betting system that's already in place at Nebraska tracks and who will own the system after this bill goes through? How does this bill affect the current system or interact with the current system when these new accounts are authorized? What will be the tax money that flows from all of this? The second section addresses secondary pari-mutuel organizations but not the primary pari-mutuel organizations, so how are the secondary ones going to be affected differently than the primary ones? These are all questions that seem to me that should be made clear to all the legislators and concerned citizens. And then the relationship of how all this is going to fit with existing law nationally and in Nebraska, and how all this is going to interrelate with what's going on, on the Internet. I really am concerned about enforcement mechanisms, and since this does not appear to do anything in the enforcement mechanism framework, just saying Nebraska wants a piece of the action because of the actions on the Internet, which I certainly agree with, feels like it's not really ready to go forward to the Legislature at this time. [LB642]

SENATOR KARPISEK: Thank you, Ms. Fairchild. Any questions? Seeing none, thank you. Do we have any further opponents? Anyone who'd wish to testify neutral? Seeing none...usually, Mr. Fitzgerald, we don't let staff close... [LB642]

TREVOR FITZGERALD: Oh. [LB642]

SENATOR KARPISEK: ...but... [LB642]

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TREVOR FITZGERALD: Would it be all right if I respond to the opposition testimony?
[LB642]

SENATOR KARPISEK: I...we usually don't. I'm sorry. I don't want to... [LB642]

TREVOR FITZGERALD: Okay. Well, we'll be sending a letter to the committee to respond to that. [LB642]

SENATOR KARPISEK: That would be wonderful. Thank you. [LB642]

TREVOR FITZGERALD: Thank you. [LB642]

SENATOR KARPISEK: That will end the hearing on LB642. We are going to be doing LB590 and LR41CA together, so anyone who is testifying can testify toward either or both when they testify. And we will have Senator Lautenbaugh open. [LB642]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman, members of the committee. My name is Scott Lautenbaugh, L-a-u-t-e-n-b-a-u-g-h. I represent District 18 and I've brought two things before you today, a bill and a constitutional amendment. The bill is very similar to last year's LB806. The companion constitutional amendment would remove any possible constitutional questions regarding the bill. We had a very vigorous debate over the constitutionality. We had an opinion from the Husch Blackwell firm saying this was clearly constitutional. The Attorney General's Office differed in some way. This, the amendment, is designed to clear up that issue once and for all. There are experts from the industry and otherwise following that can give a complete technical explanation and a refresher of the basics of these machines. And what this bill would allow would be wagering at racetracks on what are known as historic horse races, historic not in the sense that they have any particular historic significance but that they've already occurred in the past. The races are chosen from random from a bank of hundreds of thousands of races. Any information that would help someone identify when and where the race was run or any other specifically identifying information has been scrubbed. The wagerer receives only the information that would be listed in a racing form, provided at any live race, with the necessary betting statistics needed to make an informed bet. The Nebraska Racing Commission regulates how much of the race must be shown and has the full powers to ensure historic racing is properly administered and monitored. This is not expanded gambling but a form of pari-mutuel wagering using an advancement in technology previously unavailable. This will allow many existing tracks to engage in year-round wagering. We allow horse racing and wagering on horse racing, and this is wagering on horse racing. The issue is different in that the tracks exist because the people involved with them are in the business of racing horses. This is not expanded gambling for the sake of gaming. This is not an attempt to bring something else or to open the door to start down any slippery slope or all of the

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things that you are going to undoubtedly hear. This is about horse racing, plain and simple. And this is a jobs bill, make no mistake. I have made comments here before about my lack of enthusiasm about keno and it's still true. I don't know that it provides jobs. It just gives the bartender something else to do. That bartender is already there. (Inaudible) are keno parlors that have people that work there, I'm sure, and that's great. But horse racing is an agricultural venture tied to horse breeding in Nebraska, and we're talking 2,000 to 3,000 jobs here, and they want to continue to have those jobs. And they're competing with keno and they're competing with the lottery and they're competing with all these other sources of gaming. The lottery particularly is offensive to me in this regard in that we continue to allow the lottery to expand its choices and its cost, but that's somehow not expanded gambling. What you're going to hear here is that allowing another form of horse wagering, pari-mutuel wagering, somehow is expanded gambling because it would bring in more revenue. I would submit to you if that's the case then a successful advertising campaign would be expanded gambling because it's designed to bring in more revenue. That's the point. This is about agriculture and the traditions of our state, and I think this point is underlined by the Farm Bureau's decision to support this. That's an important change. You will hear testimony to follow about how these are slot machines or constitute expanded gambling, it won't help save industry or whatever. We've heard it all before. But please don't be distracted by this. I apologize to the committee and anyone in the room earlier if I seemed a little pointed in my questioning, but I am so tired. This is important to the state of Nebraska. We're talking about thousands of jobs here and I am so fed up with people coming and saying, well, don't...understand, I don't have any problem with horse racing, I think they should run more races. Well, how do you do it? How do you pay for it? How do you build a new track? How much does it cost? We have no idea. We just think you should do more of it somehow with magic money that comes from somewhere. And God forbid if you should try to preserve simulcasting while you're trying to build a new track that we took away from the horsemen ourselves. This Legislature did that when we moved the State Fair. And apparently they're just supposed to build the track without funds. Maybe the community will pitch in and volunteer, like a barn raising on a tremendous scale. This doesn't happen, in reality. You already heard a reference to horse slots. These are not slot machines. Slot machines are a thing that have a definition and they exist and we can all identify slot machines. If you don't have what I would call a slavish devotion to the truth then, yeah, these are just like slot machines. But if you have any understanding of what slot machines do and what pari-mutuel wagering is, these are not slot machines. And to be clear, these can be programmed to look like a slot machine. As I have pointed out previously, they can be programmed to look like a '57 Buick, if we're of a mind to. The kiosk that the lobbyists use outside the Chamber could be programmed to look like a slot machine. That would not make it a slot machine. It matters. The details matter, the specifics matter, the facts matter, the numbers matter. And I feel like horse racing is struggling. That's not an observation that's unique to me. And they are also laboring in a fog of misinformation and disinformation that is constantly pumped out to say, well, look, this is bad, we can't do anything to help them.

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Whatever we propose is in some way wrong. If we adjust the racing days, that's wrong. If they comply with the law and have a race so they can have the revenue because they can have the simulcasting to rebuild a track, well, that's wrong too. They should build the track with something...some other source of money. It's frustrating to me because this is not something we're doing in the abstract. You, many of you were here last year and saw the hundreds of people that came down wearing their T-shirts that said "Save Our Jobs." I mean those weren't hired actors. Those were good, working Nebraskans who are of a mind to stay working Nebraskans. And I've heard the arguments that these are subsidies or somehow allowing this is a handout, and that's just outrageous. They're not coming here asking for a subsidy, which by any commonsense definition would be us handing them money, handing them financial support. What we've been asked to do time and time again is just get the heck out of the way and let them do what they know how to do. That's what these two proposals are about. I would prefer to see them both pass because the bill would immediately authorize these machines to be placed, the constitutional amendment could settle any issues regarding whether...once and for all, but I think we're on firm ground, and I honestly believe that these are authorized under existing law because they are pari-mutuel wagering. But, as I pointed out previously, if anyone were to try to just go do it on their own, they could be subject, by some ambitious prosecutor, I suppose, to criminal prosecution without the protection of a statute passed by us. That's a lot to ask of someone, but maybe this is the time. I mean people are definitely desperate in this industry. That much is certain. And again, I don't think we're going to see what you would call a large fiscal note on this, ever, because they're not asking for money from us. They just want to be left alone. And sometimes that's worth doing. Sometimes it's worth getting out of people's ways and just letting them make a living, other than to continually close the door and say we don't care if technology advances; we don't care if we've let keno expand this way and the lottery expand this way; you, horse racing, are bound to what we had in the twentieth century and we're not moving forward and if you die, well, you die. I, for one, am tired of hearing that argument, that it's a dying industry. I can remember last year during floor debate one of my colleagues from the Panhandle, who routinely worries about population going away from the Panhandle and businesses not going to the Panhandle and basically the depopulation of greater Nebraska, say we've got to do something to reverse that trend. Well, then fine. Trends are apparently reversible. I didn't invent these machines. They've actually been used at other tracks before. And what we've seen is the machines bring in revenue that increases the purses for horse racing, and live days go back up. Despite what anyone tells you in the opposition of this, the horsemen are about having live days, live racing. They're about horses, actual horses here in Nebraska. And experience has shown this does help, this will help. This is important. This is not something that I think we can continue to turn our backs on. And I'll be happy to answer any questions you might have. I'll stay for closing, it would appear. [LB590 LR41CA]

SENATOR KARPISEK: Thank you, Senator Lautenbaugh. Senator Coash. [LB590

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LR41CA]

SENATOR COASH: Thank you, Chairman. Senator Lautenbaugh, just as a practical matter, how the constitutional amendment and this bill fit together, you said that you think if we...if the Legislature passed both then we'd have a ballot initiative and a lawful law. Can you just expand a little bit of what you meant about how these will work together? Typically, you see a constitutional amendment which enables legislation that you come back and do. How do you see that working again? [LB590 LR41CA]

SENATOR LAUTENBAUGH: Well, it is an unusual circumstance, I'll grant you that, but I believe there is a very reasonable argument that the law could be passed now without the constitutional amendment. I believe it will be challenged as well and the constitutional amendment would remove the basis for the challenge in the future and it would let people speak clearly. Because I would assume we're not going to hear a lot of opposition to the constitutional amendment because we've heard, supposedly, the voters have rejected this clearly, even though that's blatantly false, but we've heard that many times. So I would suppose there would be no risk in letting the people vote on it and see if they really would like to save this. But that's the point of it really. [LB590 LR41CA]

SENATOR COASH: Thank you. [LB590 LR41CA]

SENATOR KARPSEK: Thank you, Senator Coash. Senator Krist. [LB590 LR41CA]

SENATOR KRIST: Well, I'm going to tell you, somebody is going to come up here and say it's going to cost so much money to put it on the ballot and they've already had their way with it before and we don't need to do it again and why are you legislators giving us another choice. Because that's our job. So to that, I would say expect a little bit. My comments are pretty clear. I'm glad you brought the constitutional amendment forward, because we hear over and over again from the percentage of people who were defeated at the ballot box when we approved gambling constitutionally back in the day. Now we have the same opposition or the same small percentage that voted against this that come back and call it expansion of gambling over and over. And I think you and I are in total agreement. If they want to petition or lobby somebody, let's bring legal action against the Department of Revenue. Because, by their definition, Department of Revenue has taken two lottery games and turned it into a five- or seven-day-a-week fiesta of potential spending money on gambling, not to mention the fact that they'll call expanded gambling something we're going to hear later on, in terms of the game that you don't like because it disturbs your bartender, (laughter) but the bottom line is running more opportunities at keno. I am so glad you brought the constitutional amendment forward and I will support both of these, I think, but particularly the constitutional, because we need to, once again, reaffirm that there's a small percentage, a smaller percentage of people, who don't want to gamble in the state or don't want us

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to have any gambling. And I'll put a plug in for my piece of legislation this year, which there's a realization that gambling is bad to some people. Drinking alcohol is bad for some people. There's an addiction there, and we need to fund those programs and we're not doing that very well either, but. And I didn't see any of the antigambling people testifying on that one in support of it. But I'm glad you brought it forward and thanks for continuing to look at the constitutionality of the issue because that will solve the situation I think. And you will comment on anything that I babbled about. [LB590 LR41CA]

SENATOR LAUTENBAUGH: Yeah. Senator, let me answer your question by saying this. (Laugh) [LB590 LR41CA]

SENATOR KRIST: Was that a question? I'm sorry. (Laugh) [LB590 LR41CA]

SENATOR LAUTENBAUGH: I thought we were just...okay. In any event, yeah, you are correct. That's been one of the travesties we have here is to say that this somehow, when you can point to the jobs and you can point to the tradition, you can point to the history and you can have, you know, a gallery full of people saying, please help us, this somehow is the wrong kind of gambling, despite the fact that problem gambling associated with this is almost nil, by the way. But this is wrong, we shouldn't do this, but since the lottery exists, we should allow it to expand beyond all reason. And make no mistake, I mean you can bring some skill to bear at a racetrack and make an informed decision. That doesn't happen so often in the Powerball or any other lottery that we have. It's the biggest sucker bet we have. Well, another one is a close second, but I always pick on them so I'm not going to do that again. But it exists, it's here. And I can remember on the floor debate one time saying, look, gambling is wrong, we shouldn't have gambling, one of the opponents said; by the way, if this is allowed it will cut into the keno revenue. Well, which is it? This is an industry that means something here in this state and we need to do what we can, especially when the cost is just getting out of the way. [LB590 LR41CA]

SENATOR KARPISEK: Thank you, Senator Krist. Any...Senator Bloomfield. [LB590 LR41CA]

SENATOR BLOOMFIELD: Thank you, Chairman. You mentioned the input you can put into live horse racing to come up with a knowledgeable chance of maybe being able to do something. How much of that applies to historic horse racing? [LB590 LR41CA]

SENATOR LAUTENBAUGH: I would... [LB590 LR41CA]

SENATOR BLOOMFIELD: How much of that same knowledge is provided? [LB590 LR41CA]

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SENATOR LAUTENBAUGH: I would say the same. I mean you have the same racing form, you have the same information of the jockey's tendencies, the horse's tendencies, that kind of thing. The only thing that would be lacking, to my understanding of it, would be the time and place and actual names so that you would be able to perhaps remember the race somehow, which would seem astronomically unlikely. [LB590 LR41CA]

SENATOR BLOOMFIELD: It would seem large. [LB590 LR41CA]

SENATOR LAUTENBAUGH: But, yeah, you would still have the history there. You would still be able to make...bring your judgment to bear. That's the point. It's made to function like pari-mutuel wagering because that's what it is. [LB590 LR41CA]

SENATOR BLOOMFIELD: Okay. Thank you. [LB590 LR41CA]

SENATOR KARPISEK: Thank you, Senator Bloomfield. Any other questions? Senator Johnson. [LB590 LR41CA]

SENATOR JOHNSON: Thank you, Senator Karpisek. Thank you, Senator Lautenbaugh, bringing this to us, the first time for me. I've sat on the sidelines before, but in the last year as I campaigned I had numerous calls from a lot of people in my district that raise horses. So it is a jobs bill, I would call it; not this extension, if it is, or this addition of historic. I don't see that in itself a jobs bill, but I see it a jobs preservation bill to keep the live horse racing alive. And from that standpoint, I believe in horse racing. It's a different type of a game than the slot machine. I appreciate bringing the constitutional amendment part to it. Thank you. [LB590 LR41CA]

SENATOR LAUTENBAUGH: Yeah. [LB590 LR41CA]

SENATOR KARPISEK: Thank you, Senator Johnson. [LB590 LR41CA]

SENATOR LAUTENBAUGH: And, Senator, I guess I would respond to your question by saying as well, you're right, this is of a different kind. You don't see, hopefully, parents taking their kids to the keno parlor while they sit there and play keno or that's not really what you would think of as a family activity. Horse racing is different. Horse racing is an event. I was at what we all thought was the last...one of the last nights of racing here in Lincoln, and there was that one extra one, extra day, but there are people there who just loved it for the sake of, you know, being there, watching the horses, being involved in that. You don't get that with keno and, there I go again, (laughter) other forms of gaming, let's say,... [LB590 LR41CA]

SENATOR JOHNSON: Yeah. [LB590 LR41CA]

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SENATOR LAUTENBAUGH: ...lottery tickets, that kind of thing, pull cards. [LB590 LR41CA]

SENATOR KARPISEK: Any further questions? Seeing none, thank you, Senator Lautenbaugh. [LB590 LR41CA]

SENATOR LAUTENBAUGH: Thank you. [LB590 LR41CA]

SENATOR KARPISEK: Any proponents on the bill? Welcome. [LB590 LR41CA]

LORAN SCHMIT: Thank you, Chairman Karpisek. My name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. I appear here today on my own behalf as a longtime supporter of horse racing and the industry, which I think has been very valuable to the state of Nebraska. I always have to marvel at the...what we call the selective enforcement of various statutes, whether it has to do with gambling or anything else. And it's been my principal complaint, I believe, that we have a tendency in this state to zero-in on horse racing as being bad. Well, it takes about 30 minutes in between horse races and you can flip the handle on a slot machine across the river about every four seconds. And so there's a tremendously greater opportunity there to lose, more than you have in a horse race. I will say this. Last week the Department of Revenue spent, I believe, 15 or 20 hours trying to discuss sources of revenue and at the conclusion Senator Hadley asked me to give a little resume of what has happened in the last 44 years that I've been around in the area of revenue raising. And the industry used to be a \$300 million industry in the state of Nebraska and, for some reason or other, it has become something which is not desirable. I happen to believe it's just as desirable as any other form of an industry. But one of the things that always bothered me was that we have a tendency to be antigambling or progambling, and when I watch what now is considered to be computer trading on the stock market, thousands of trades per second, and it's passed off as a legitimate business and no one objects to it, then the kind of activity we have here today in the racing industry becomes almost insignificant. One more thing, and I'm probably about the only guy who brings it up and I bring it up all the time, because in this state of Nebraska we fuss about the gambling and we don't condone it, etcetera, etcetera. But we allow in this state the largest amount of illegal, unlicensed, unregulated, untaxed gambling to take place--sport betting. Senator Chambers has proposed legalizing it several times. The two states that...no, I think now there are four states that allow for sport betting. After finding out that 38 other states got involved in Class III gambling, moved through the Congress, believe it or not, to prohibit sport betting in any other of the 4 states. I don't suppose that Las Vegas and folks back in Atlantic City had anything to do with that, but the facts are that today people who told me, and should know, said there's \$2 billion of sport betting in Nebraska anyway. That boggles my mind. I can't believe that, but that's what some people who should know tell me. Yet I don't think I've ever heard of anyone being prosecuted in the state of Nebraska for placing a bet on any kind of a sport activity. So if gambling is bad and we're going to be worried about it,

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whether it's keno or it's horse racing or pickles, whatever it is, let me tell you this, we have an obligation I think to enforce the really illegal, unlicensed, untaxed, unregulated gambling that takes place in the state of Nebraska and in Lincoln. I appreciate Senator Lautenbaugh bringing his bills back. I think they'll help horse racing and I hope they're successful. I'd be glad to answer any questions. [LB590 LR41CA]

SENATOR KARPISEK: Thank you, Senator Schmit. Any questions? Seeing none,... [LB590 LR41CA]

LORAN SCHMIT: Thank you. [LB590 LR41CA]

SENATOR KARPISEK: ...thank you. Do we have further proponents? Welcome. [LB590 LR41CA]

JESSICA KOLTERMAN: Thank you. I'm excited to be in your committee. I don't think... [LB590 LR41CA]

SENATOR KARPISEK: We don't get to see you very often. [LB590 LR41CA]

JESSICA KOLTERMAN: I don't think I've been here at all. So for the record, my name is Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. I'm here testifying on behalf of Nebraska Farm Bureau Federation where I serve as the director of state governmental relations. We are here in support of LB590 and LR41CA. Previously, we've had members that have talked to us about these issues, but we do not have policy on these issues. And so last December, at our last state meeting, our members took a position in support of the horse racing industry and a lot of their discussion was about those facilities. So I'll just read you what our actual policy states. We support the horse racing industry in Nebraska and believe in the viability of horse racing facilities for 4-H programs as well as other ag-related events. At the core, our members see this as an agriculture industry and that's what came out in their discussion, which is why they modified their policy. You know, the industry has been extremely supportive of a lot of events and groups such as the 4-H groups use those facilities in horse shows. There's also horse clubs that use them. And what our members told us is that if the horse racing industry in the state went away, they would not have the use of those facilities and it would cause a lot of problems for these groups. We urge the committee to work on legislation that will help the industry remain viable. We'd be happy to be part of that process. And with that, I'll answer any questions. [LB590 LR41CA]

SENATOR KARPISEK: Thank you, Ms. Kolterman. Any questions? Seeing none, thank you. [LB590 LR41CA]

JESSICA KOLTERMAN: All right. Thank you. [LB590 LR41CA]

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SENATOR KARPISEK: Further proponents. Welcome back. [LB590 LR41CA]

GREGORY HOSCH: Hi. Long time no see. Mr. Chairman, Senators, Gregory Hosch, G-r-e-g-o-r-y H-o-s-c-h. You should all know how to spell it by now. I'm the general manager of Horsemen's Park and I'm here in support of LR41CA and LB590, and I thank Senator Lautenbaugh for bringing these bills. We believe that this is legal already. We think that betting on historic racing machines is legal. It's pari-mutuel wagering. However, the Racing Commission, who the chairman of the Racing Commission last year testified that he believes this is legal, but that aside, the Racing Commission and RaceTech, who actually manages the machines, think that we should have legislative approval before we can move forward and put them in, so here's the bill. We, you know, these machines are real simple. They're nothing more than the self-serve machines that we have now, canned to emulate or look a little bit similar to a slot machine, nothing more, nothing less. They...you can walk up to a self-serve machine now and you can pick your horse or you can go for a quick pick, just like you would if you went in and bet the lottery, however you want to do it. These machines are similar in nature to that. You can come up...you can bring up the information and it's all, to answer Senator Bloomfield's question, the information comes up in a pie chart. And you can see how often the jockeys on the different horses win and how often this horse wins and information like that. And you can pick your numbers and, you know, you hit the button and you can watch the horses. You can watch the whole race, you can watch the stretch, you can watch the last 20 seconds, whatever. You can actually choose how much of it you want to watch or you can simply do the same as you can do it a quick pick. You can hit the...or the self-serves, you can hit the quick pick and it will pick it for you and it will let you know how it wins, whether you win or lose. The thing about it is it's similar to a pick six wager where you're all betting into the same pool and a certain portion of the wager goes into the pool and is carried over if you don't hit that entire wager and then certain parts of it are paid back. So that's the pari-mutuel side of it. You know, you'll probably hear that if we get the instant racing machines then we're going to have slot machines. I've read that somewhere, that it always comes out. And just you know as well as I know that we can't have slot machines unless people vote for it. That's plain and simple, unless Senator Schumacher gets his way. Then it will be up to you guys or gals. But that can't happen so that's just another misinformation that's always out there and for some reason the media never...they don't follow up with a question of how would the horsemen turn that into a slot machine. I don't know. If I knew, we'd do it, but I don't know. So anyway, I don't think that these...this is an expansion of gambling. All we're going to do is take the money and finish building this project in Lincoln. The horsemen are building it on...kind of on a shoestring budget now. It's going to take some doing. And luckily, we were able to secure our simulcast license for the next two years with our race in January, and that money is going to be used to help build this track. If we get these machines, it will lead to more live racing, more purse money for the horsemen. I guess I'll steal a line from Senator Lathrop last year when he was testifying on the floor in favor of LB806. He said the same thing, this will not increase the number

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of gamblers; we're just going to try and intercept a few of them on the way to Council Bluffs. So I'm in favor of this. I hope that you'll see it that way and you'll get it out there and get it passed and really help the industry out. If you have any questions, I'll be more than happy to answer. [LB590 LR41CA]

SENATOR KARPISEK: Thank you, Mr. Hosch. Any questions? I guess I would ask, would it be roughly the same amount of split as simulcast is now for the way you dole your money out? [LB590 LR41CA]

GREGORY HOSCH: Well, this is actually a simulcasting product, is what I call it, because we'd be simulcasting the old races. The takeout on the historic racing machines is 10 percent as opposed to now the wagers are anywhere...the takeout is anywhere from 14 percent to 28 to 30 percent on some exotic wagers. So that 10 percent takeout then is split, would be split amongst the...you know, similar to how the simulcast revenue is split now. A certain percentage would go to the horsemen, a certain percentage to the track, to the state, to the Racing Commission, to RaceTech. It would be split up pretty similar. [LB590 LR41CA]

SENATOR KARPISEK: Very good. Any other questions? Senator Krist. [LB590 LR41CA]

SENATOR KRIST: You're familiar with the concept, loss leader concept? [LB590 LR41CA]

GREGORY HOSCH: Correct. [LB590 LR41CA]

SENATOR KRIST: So what you're describing here is, just to put it on the record again this year like the last few, there are things that you would like to do and one of those things is to run more live races. [LB590 LR41CA]

GREGORY HOSCH: Correct, Senator. [LB590 LR41CA]

SENATOR KRIST: In order to run more live races, you need to first recreate the track that this Legislature took away from you a couple years ago and potentially build another, if it would be possible,... [LB590 LR41CA]

GREGORY HOSCH: Correct. [LB590 LR41CA]

SENATOR KRIST: ...to increase the number of live races. Just like a supermarket, if you want to provide the things that make you money, you have to have those things that you lose money on to bring people in the door. But in this concept, you are going to have something that brings people in the door which is legal, by constitution--pari-mutuel betting--which funds those tracks to increase the number of

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live horse races. [LB590 LR41CA]

GREGORY HOSCH: That's correct. [LB590 LR41CA]

SENATOR KRIST: And live horse races means jobs. [LB590 LR41CA]

GREGORY HOSCH: Jobs, and that's how the horsemen earn their living. [LB590 LR41CA]

SENATOR KRIST: Okay. [LB590 LR41CA]

GREGORY HOSCH: And unfortunately, this year they're going to have to leave the state for a while until we can get this facility built. And it was mentioned earlier that we're down to 49 days. That's not by choice. [LB590 LR41CA]

SENATOR KRIST: Right. [LB590 LR41CA]

GREGORY HOSCH: If you would have given us that property instead of the university, we'd be running 30 days there and we'd have 72 days this year. But the fact of the matter is, that didn't happen and so the horsemen are scrambling. And once we get that track built, these machines could provide the revenue to get it done in a more timely manner. It will be a mile racetrack. I don't know if any of you have seen the plans, but it's going to be a nice facility when it's all said and done. We just got to get the revenue, some sort of ancillary revenue, to get it done and this would provide it. [LB590 LR41CA]

SENATOR KRIST: And I don't intend to say anything else the rest of the day, but...so I'll just add one thing. I would hope that at some time in the future the State Fair would reintroduce family horse racing into the State Fair environment, because then I will take my family to the State Fair. Thank you. [LB590 LR41CA]

GREGORY HOSCH: I would. I could appreciate that and I would like to see that as well, because there is a nice facility there at Fonner Park that it could be done. [LB590 LR41CA]

SENATOR KARPISEK: Thank you, Senator Krist. Any other questions? Seeing none, thank you, Mr. Hosch. [LB590 LR41CA]

GREGORY HOSCH: Thank you. [LB590 LR41CA]

SENATOR KARPISEK: Any further proponents? Welcome back. [LB590 LR41CA]

LYNNE SCHULLER: Thank you. Lynne Schuller, S-c-h-u-l-l-e-r, with the Nebraska HBPA in support of both LR41CA and LB590. We very much appreciate Senator

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Lautenbaugh and his willingness to introduce both of these things. You know, typically I think people would consider him an urban senator but he has really advocated for our agricultural interests and I very much appreciate that. I am a former employee of the state lottery so I'm well aware of how it operates. I'm a supporter of the state lottery. The difference between the lottery and us, especially, is that most of the horse racing statutes were written in the '20s and the '30s, and the lottery is a less than 20-year-old venture. And so when they want to double their game, as they did when they added Mega Millions, they have one public hearing and they can change it through rules and regs. And, you know, that...I don't remember what the last numbers were but I mean it's tens of millions of dollars that it brings in for them every year, where these types of technological advances would have never been contemplated when these statutes were originally written. So that's the hurdle that we have to overcome. In order to adapt, make our options more modern, more current we have to, depending on your opinion, either change statute or change the constitution. So that's the situation we're in. But we are willing to adapt if that's what the Legislature decides is necessary for us to do. But we would like to update our games, if at all possible. And as Senator Lautenbaugh mentioned before, you know, you can get all of the same handicapping information with historic racing as you can if you've got a form in your hand. So we would really like to see one or both of these things come out of committee, if at all possible. Thank you.
[LB590 LR41CA]

SENATOR KARPISEK: Thank you. Any questions? I would ask can you tell us, for the umpteenth time though, who actually owns the tracks? [LB590 LR41CA]

LYNNE SCHULLER: The Nebraska HBPA owns Horsemen's Park in Omaha. They did own Horsemen's Atokad Downs in South Sioux City, which has since been sold. We were leasing the State Fair Park, former State Fair Park facility from the university, so we now own the Lincoln facility, which we're building from the ground up. Fonner and Columbus are both owned by their respective ag societies, but the horsemen own two of the four racetracks in Nebraska. [LB590 LR41CA]

SENATOR KARPISEK: And did own three of the five. [LB590 LR41CA]

LYNNE SCHULLER: And did own three of the five, yes. [LB590 LR41CA]

SENATOR KARPISEK: And are you...can you tell us who bought Atokad? [LB590 LR41CA]

LYNNE SCHULLER: The Winnebago Tribe, who has casino gambling...or they would like to get casino gambling across the river in Sioux City. They do have WinnaVegas across the river; I believe it's in Sloan, Iowa. I haven't really kept up on that but they put in a bid for the casino license in Sioux City, Nebraska, and they did not articulate to the HBPA at the time they purchased it but have subsequently in the paper said that the

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reason they purchased Atokad was to take us out of that market so that there would be less competition for their casino if they do get the license. We didn't really care what the reason was that they wanted to purchase it. We needed the seed money in order to save the second largest market in the state, which is Lincoln. So they had to make that very difficult decision to close that facility to use that money to spend down in Lincoln, which is too bad. South Sioux City was a great market and we employed a lot of people up there. But unfortunately, we had to put those people in South Sioux out of work so that we could build the facility down here. [LB590 LR41CA]

SENATOR KARPISEK: And there's not much talk of them opening Atokad back up? [LB590 LR41CA]

LYNNE SCHULLER: No. They don't have any interest in that. They had talked about perhaps doing some type of an exhibition race but one race, and I don't think that they were seriously considering it. I think they were just making conversation, but I could be wrong. [LB590 LR41CA]

SENATOR KARPISEK: And again, the HBPA is made up of? [LB590 LR41CA]

LYNNE SCHULLER: Owners and trainers on the racetrack, who make their living on the racetrack. [LB590 LR41CA]

SENATOR KARPISEK: Very good. Thank you. Any further questions? Seeing none, thank you. Oh, sorry, Senator Johnson. I'm sorry. [LB590 LR41CA]

SENATOR JOHNSON: Well, let's say everything moves forward and we have historic races and we have simulcast and we're able to get the live horse racing back,... [LB590 LR41CA]

LYNNE SCHULLER: Yes. [LB590 LR41CA]

SENATOR JOHNSON: ...up to where it was pre-something, maybe "presimulcast" even,... [LB590 LR41CA]

LYNNE SCHULLER: Uh-huh. [LB590 LR41CA]

SENATOR JOHNSON: ...and it's that alive, do you see historic racetracks ever competing and taking money away from live that it could be phased out? [LB590 LR41CA]

LYNNE SCHULLER: No, and the reason I say that is because you might be able to say that in other jurisdictions where racetrack management is totally separate and apart from the horsemen. In this case, horsemen are management with the racetrack. And so

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the only way they can make any money is through live days, so if it were up to them, they'd go back to 180 days back when Ak-Sar-Ben was still around and we were running live in Omaha. I think they had, boy, I want to say 60 to 80 live days, Ak-Sar-Ben did. I mean they had so many days that Atokad had no choice but to run the same live days against Ak-Sar-Ben because there was no other date on the schedule available. That's how many live days there used to be. We would love to get back to that position but, unfortunately, those were back in the days when there were no other forms of gambling anywhere. Keno did not exist. Pickle cards did not exist. Casinos sure weren't around then. They used to bus people from Kansas City in huge buses that Ak-Sar-Ben paid for. It was not unusual at all for them to have a crowd of 30,000 people at Ak-Sar-Ben. [LB590 LR41CA]

SENATOR JOHNSON: So you're always going to compete against technology (inaudible). [LB590 LR41CA]

LYNNE SCHULLER: We're always going to compete against technology. That's just the way of the world now... [LB590 LR41CA]

SENATOR JOHNSON: Right. [LB590 LR41CA]

LYNNE SCHULLER: ...and we have to do what we can to stay as current and modern as those forms. [LB590 LR41CA]

SENATOR JOHNSON: Thank you. [LB590 LR41CA]

LYNNE SCHULLER: Thanks. [LB590 LR41CA]

SENATOR KARPISEK: Thank you, Senator Johnson. [LB590 LR41CA]

SENATOR JOHNSON: Thanks for recognizing. [LB590 LR41CA]

SENATOR KARPISEK: I'll take a better look this time. Seeing no questions, thank you. [LB590 LR41CA]

LYNNE SCHULLER: Thank you. [LB590 LR41CA]

SENATOR KARPISEK: Do we have any other proponents? Seeing none, do we have opponents? Welcome back. [LB590 LR41CA]

GLEN ANDERSEN: (Exhibit 6) Well, thank you. My name is Glen Andersen, G-l-e-n A-n-d-e-r-s-e-n, and I'm an experienced testifier here now and I thank you for being able to be here. My position on gambling is not completely against gambling. I think a Saturday night poker game is not such a bad thing because...but there's not much

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commercial value in it and no one can take much money out of it. So my general gambling philosophy is that it's bad for families. It's bad economics. Any money that a person loses is not spent on any legitimate businesses in the area, in Nebraska. It's not spent on legitimate...and it's not...and if it's a business owner that lost the money, he can't invest it back in his business. Money lost on gambling is gone. And it's bad for government. Government should be profamilies, probusiness, and pro elderly, and that's the way government should operate. But I do agree with Senator Lautenbaugh on one thing. This is an important issue. I can understand that watching real horses race is entertaining, real jockeys, real horses, real sweat on the horses, see their nostrils open up going across the finish line. That may be entertainment, at least I can understand that. But it seems obvious to me that the interest in horse racing is all but gone. I keep hearing about these racetracks who are trying to get out of running races. You know, we'd like to see them run 180 days a year and they want to run 1. Don't understand that. And I'm here to tell you that historic horse races is not real horse races, not live races. It's not the same. And I can assure you that there's going to be a lot of revenue from it or there would be not so much interest in it. And so I can assure you that it is different gambling than racing; therefore, it is expanded. And it is going to increase revenue; therefore, it is expanded gambling. And I'm trying...in reading LB590, I get a little confused when I get to like page 3, line 4. We see the sentence that starts out, if use of historic, and it goes on and on and on and it, as I understand that, the way it's been explained to me, they're not even sure it's constitutional. That's my...what I understand about this. And then when I look at the amendment resolution proposal, I look at it and I read it and it specifies where all the funds are supposed to go. Why is that necessary? If it's so good, just...I mean, if it's good just put it back in the General Fund. But it's a real gimmick to specify it to...and put it towards something like the...oh, what is it...the thing for therapeutic racing or therapeutic horses. And there must be a reason that they're trying to make this thing look good. They can advertise that this is something good for everyone in Nebraska. And then my next question...oh, and why do we need to have this as an amendment in the first place? If it's good, a bill will...can be drawn up and accepted and it will not be changed. But they must...whoever must be concerned about making sure it stays. [LB590 LR41CA]

SENATOR KARPISEK: Can you wrap it up, Mr. Andersen? Your red light is on. [LB590 LR41CA]

GLEN ANDERSEN: Okay. I got one more sentence. I'll get... [LB590 LR41CA]

SENATOR KARPISEK: Okay. [LB590 LR41CA]

GLEN ANDERSEN: And then my next question is, why do we need the lottery in the first place? Thank you. [LB590 LR41CA]

SENATOR KARPISEK: Thank you. Do we have any questions? I'd like to ask, so

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increasing revenue is your definition of expanded gambling. [LB590 LR41CA]

GLEN ANDERSEN: It may be a trick question but it sounds right. [LB590 LR41CA]

SENATOR KARPISEK: Well, that...you stated that. [LB590 LR41CA]

GLEN ANDERSEN: Yeah, that's what I said. [LB590 LR41CA]

SENATOR KARPISEK: So using Senator Lautenbaugh's scenario the other day, if they were to advertise in the newspaper and more people came and so then there was more revenue, that would...would that be expanded gambling? [LB590 LR41CA]

GLEN ANDERSEN: That's the way I would look at it. [LB590 LR41CA]

SENATOR KARPISEK: Running an ad. [LB590 LR41CA]

GLEN ANDERSEN: That's an opinion and that's all you can get out of me. [LB590 LR41CA]

SENATOR KARPISEK: (Laugh) That's good. I'd just like to say the racetracks want to run more days; hence, why they're trying to get this to get some money because it costs a lot to run a live race. [LB590 LR41CA]

GLEN ANDERSEN: If this was a good deal, someone would come up with the money and put it in. We just had Walmart put in, in Blair, and they didn't have to worry about, when they put that thing up, whether they're going to make money or not. They didn't have to have someone from Blair give them money. [LB590 LR41CA]

SENATOR KARPISEK: Excuse me. Who's giving them money in this? [LB590 LR41CA]

GLEN ANDERSEN: Well, I don't know. If it's a...if this is a good investment, there will be investors more than willing to put money up for this track, but I don't think you're going to find very many that will invest in something where other racetracks are trying to not run races. [LB590 LR41CA]

SENATOR KARPISEK: Okay. Any other questions? Thank you, Mr. Andersen. [LB590 LR41CA]

GLEN ANDERSEN: Yep. Thank you. [LB590 LR41CA]

SENATOR KARPISEK: Further opponents. [LB590 LR41CA]

SENATOR COASH: Welcome, Pat. [LB590 LR41CA]

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PAT LOONTJER: (Exhibits 7, 8, and 9) Thank you. I'm Pat Loontjer, L-o-o-n-t-j-e-r, 2221 South 141 Court, Omaha, Nebraska. I represent Gambling with the Good Life. We've been doing...fighting against expanded gambling for 18 years and, as far as I know, will continue to do it. What I thought was a three-month commitment on my part has now become a lifetime obligation. But as you...many reference have been made that you're going to hear the same thing over and over and the same people over and over, the same organization over and over, it's the fact that it's the same bills over and over that keeps coming back. There used to be, oh, kind of a code of honor that if a bill was defeated one year it would not be brought back the immediate next year. It would usually wait a year or so. And that's not the case anymore. They're coming back, almost basically the same bill, year after year after year. So I expect that we'll be back here year after year after year. But I'll start off by telling you about the National Gambling Impact Study Commission, which was a national study done by Washington, D.C. One of their conclusions was that to refuse to allow the introduction of casino-style gambling into pari-mutuel facilities for the primary purpose of saving a pari-mutuel facility that the market has determined no longer serves the community or for the purpose of competing with other forms of gambling. And that's exactly what we see is happening with the historic slot machines. They may say that it's not a slot machine. You know, we say if it walks like a duck, talks like a duck, it's a duck. In their...the Web site, and I'll have copies of this for you, they're quoted as saying, one of the suppliers of these machines says, "What we have done is to merge the pari-mutuel horse betting experience with penny slots, pure and simple. Just imagine a system that will get people betting up to 1,000 races an hour at pennies per race. That is exactly what our patented system does." One thousand bets per hour is, indeed, a slot machine experience. It is not a horse racing experience. You can't even watch 1,000 races in an hour, but these machines are capable, with the speed to do that. So we...and we last year gave you pictures of those machines. We do consider this expanded gambling. And we talked about how they're going to help the horse racing industry, but who's going to be hurt? You know, who's going to become the addict? Who's going to be losing their paycheck? Who's going to be losing the money for the children's clothes? Who's going to wind up embezzling from their employer? You know, this is not a win-win situation. There are winners and losers, and I think we have to think about the losers. These are people that are fellow Nebraskans that are going to lose their livelihoods. The latest report that came out from, let's see, Nebraska Department of Health and Human Services, in their annual report, stated that there was currently at that time, and that was 2009, the average gambler's debt was \$27,000. You know, that's the average. That's people who have gone for treatment. You know, there's so many more that are under the wire that haven't even gone, and there's so many more that are exceeding that. These are fellow Nebraskans. And if we bring in another form of gambling, which is the historic slots, horse track things, it's going to be more addiction. The...you know, we're going to be dealing with the Attorney General's Opinion and I'll give you copies of that. This is the whole thing and I didn't want to kill all those trees to give you that because I knew you

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could look it up anyway. But this is just the conclusion and it says: In summary, we conclude that attempts to authorize wagering on the results of previously run horse races through the use of IRTs resembling slot machines or other video gambling devices likely does not constitute a form of pari-mutuel wagering which the Legislature may permit. The use of these machines to wager on the results of previously run races appears to be impermissible. So that's from our Attorney General. They have been ruled illegal in a number of other states. Of course, this has not gone to trial yet. And I know that it's always a question, don't bring up the subject of the tax exemptions, but it's here, it's there. Why do they have a tax exemption? If we're talking about balancing our budget and we're talking about getting rid of income tax and getting rid of exceptions, I think this needs to be looked at. Because at the time when this was given, it was totally a benevolent organization that gave... [LB590 LR41CA]

SENATOR COASH: Okay, Pat, we'll have you conclude there since... [LB590 LR41CA]

PAT LOONTJER: Okay, just got one more thing. [LB590 LR41CA]

SENATOR COASH: Well, the red light is on. [LB590 LR41CA]

PAT LOONTJER: Oh, sorry. [LB590 LR41CA]

SENATOR COASH: So we'll see if there's any questions for you. [LB590 LR41CA]

PAT LOONTJER: Okay. [LB590 LR41CA]

SENATOR COASH: Senator Bloomfield. [LB590 LR41CA]

SENATOR BLOOMFIELD: Thank you. Pat, I asked Senator Lautenbaugh about how much information was given to you before you placed the wager on the historic horse racing, and he said that his understanding was that you had the same information you had on the racing form. Do you concur with that or... [LB590 LR41CA]

PAT LOONTJER: No, from... [LB590 LR41CA]

SENATOR BLOOMFIELD: ...without going on too long. [LB590 LR41CA]

PAT LOONTJER: No, from what I understand, it's available on the machine. You know, it could be looked up, you know, if you wanted. [LB590 LR41CA]

SENATOR BLOOMFIELD: So it is available on that. [LB590 LR41CA]

PAT LOONTJER: That's what I understand, that it's available, but it's very seldom used. But it is, technically it's there. If you wanted to check on the track or the age of the horse

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or the jockey, it's available. [LB590 LR41CA]

SENATOR BLOOMFIELD: Okay. [LB590 LR41CA]

PAT LOONTJER: But that the one that's primarily used is the speed. You know, they're not (laugh)... [LB590 LR41CA]

SENATOR BLOOMFIELD: Now that... [LB590 LR41CA]

PAT LOONTJER: ...they're not looking up the dead horse's history. [LB590 LR41CA]

SENATOR BLOOMFIELD: Now that's the player's choice. [LB590 LR41CA]

PAT LOONTJER: Yeah, it's the player's choice. [LB590 LR41CA]

SENATOR BLOOMFIELD: You can walk in to the racetrack and throw your money up there, too, without looking at anything, so. [LB590 LR41CA]

PAT LOONTJER: Yeah. I did that one time and that was the last time I... (Laugh)
[LB590 LR41CA]

SENATOR BLOOMFIELD: Well, you're one ahead of me then. Thank you. [LB590 LR41CA]

SENATOR COASH: Thank you, Senator Bloomfield. Any other questions for Pat? Pat, I just...I have one. How many members does Gambling with the Good Life represent?
[LB590 LR41CA]

PAT LOONTJER: A lot. We have thousands. [LB590 LR41CA]

SENATOR COASH: Do you keep a roster? Do you have a... [LB590 LR41CA]

PAT LOONTJER: Oh, yeah. Uh-huh. We have a database that we do mailings and e-mails and things to... [LB590 LR41CA]

SENATOR COASH: I'm not a member of the organization. I'm just... [LB590 LR41CA]

PAT LOONTJER: Uh-huh. [LB590 LR41CA]

SENATOR COASH: I'm trying to...I ask and I wonder if you can get more specific. Because when somebody comes in and represents a large group of people, sometimes we don't know if that means they represent a dozen or 20 percent of the state or...so about how many members would you consider are represented by Gambling with the

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Good Life? [LB590 LR41CA]

PAT LOONTJER: Well, it's well over 2,500 that we have on the database. But when...we have affiliations with almost every church in the state of Nebraska that when we've been on the ballot, which has been twice, and we've had to go out over the whole state, almost every church, with very few exceptions, signed on with us and got all of our information out. So we work in conjunction with other profamily type of organizations. And so when we want something to go out, we'll contact them. They'll use their database because they agree with our issue. [LB590 LR41CA]

SENATOR COASH: So you, when you say 2,500, does that count the churches... [LB590 LR41CA]

PAT LOONTJER: No, no, no, not at all. [LB590 LR41CA]

SENATOR COASH: ...or it's 2,500 plus the churches? [LB590 LR41CA]

PAT LOONTJER: Not at all. [LB590 LR41CA]

SENATOR COASH: Okay. Just wondered. Thank you. Any other questions for Pat? Seeing none, we'll take the next opponent. While Ms. Fairchild is on her way up, I will take this opportunity to read into the record letters of opposition to LB590 from the Nebraska Family Council and from Family First, opposition to both LB590 and LR41CA. (Exhibits 10 and 11) Welcome. [LB590 LR41CA]

LORETTA FAIRCHILD: Thank you. I want to speak to the...I do see that they are very interrelated, but I want to speak to them somewhat separately. I am Loretta Fairchild, Ph.D., L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d, and I represent myself. And because politics always swamps economics in the way legislation happens at all levels of government, I am here to urge you to please give a very high place in your deliberations for the economics of these issues. Beginning with LB590, which again is basically the same as what appeared last year, the Nebraska Racing Commission performs...well, I do want to go back and say that I grew up on a very small farm in western Nebraska that raised wheat, and I always wanted a horse and we couldn't afford one. And I am very interested in having the Legislature do a lot more for the state of Nebraska outside of Lincoln and Omaha. And if any of you will do anything to start limiting the lottery and keno, I would be very happy to join in with those efforts. The...I do have one suggestion for promoting live racing, because I think that that is what is...what should be preserved in the state of Nebraska, and my suggestion, the only thing I can see that would help over the long run is to start bringing city kids out in the summertime on one- and two-week internships so that they would actually have a chance to learn how to help take care of a horse, and that's how you learn how to love horses and get interested. The Nebraska State Horse Racing Commission performs a very long list of vital duties

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to preserve the fairness and integrity of the horse racing operation. This is a very complex industry and it's a very expensive industry, as been mentioned several times. So one of the points that was made in a hearing last January, where one member of the Nebraska State Racing Commission testified in a neutral capacity with respect to this bill then, was that they were already cash strapped, and I think that is absolutely true, and their current funding is inadequate for their current duties without bringing in this new form of the historic horse racing. And those who care about preserving live horse racing in the state should be making focusing on additional funding for the Nebraska Horse Racing Commission to be a top priority before any of these additional duties are laid on the commission. The part of the wording in this that is disturbing is the fact that even if these...the decision comes down from the courts that these would be illegal, that they could continue to operate for an entire nother year and mechanisms could be retained in place to sort of enable that to continue. That seems a very unusual way to deal with something that is illegal. And Nebraskans do have a preference for constructing laws for ways that will be helpful to the state and legal. Looking at LR41CA, I'd like to look at the amendment itself at the very end of the bill where it says, Section 2, the proposed amendment, so forth, will have the following ballot language: a constitutional amendment to provide for the enactment of laws relating to wagering on live, replayed, and delayed horse races for licensed...at licensed racetracks. So clearly the author understands here that a constitutional amendment is needed. And clearly live horse racing are totally constitutional within Nebraska, so this isn't necessary for live horse racing. So there must be something in the replayed and delayed horse racing that is considered to be unconstitutional and so they're asking to change the constitution, which brings me clearly to why Nebraska put the prohibition against Class III casino-type gambling into its constitution and why it should stay there. This is a very serious economic case against casino-type gambling, no matter what kind of label you want to put on that. And I would like to look... [LB590 LR41CA]

SENATOR COASH: Thank you, Ms.... [LB590 LR41CA]

LORETTA FAIRCHILD: ...I really, since this is two bills, I think I should have five minutes for each. [LB590 LR41CA]

SENATOR COASH: Well, the Chair said at the beginning we were going to hear these bills together, so we'll give you a chance, if you have some wrapping up comments, we'll be glad to hear and give you... [LB590 LR41CA]

LORETTA FAIRCHILD: Well, I'd like to raise...I'd like to respond to several points that have been raised earlier and one is the health of the horse racing industry, the pool of money that comes in from pari-mutuel betting and how that relates to the costs, the pattern of pari-mutuel money that will feed paying the costs. I think that is something that should be delineated because it has been an assumption that that should be enough, and yet, because the expenses are very high, that's a problem. It's important

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that there actually is no linkage between the horse...the live horse racing industry itself and these other forms of gambling. They have been linked historically, but economically there is no justification for linking them. Each industry, in a free-enterprise system, each industry has to provide its own revenue stream and there are...so this notion that they have to stay together is something that really does not have a logical basis to it. People want to hang on to them, but what I want you to consider is that there's a lot of poor farmers in agriculture. You could simply use the revenues from any of these forms of gambling and let them go out to those other farmers. Their needs are absolutely as great as the horse racing industry. [LB590 LR41CA]

SENATOR COASH: Okay. Thank you, Ms. Fairchild. We'll see if we have any questions from the committee. Seeing none, thank you for your testimony. [LB590 LR41CA]

LORETTA FAIRCHILD: There have been...economic arguments have been presented over and over and over and over. They do merit justification in this framework. [LB590 LR41CA]

SENATOR COASH: Thank you, Ms. Fairchild. [LB590 LR41CA]

LORETTA FAIRCHILD: They have not been adequately presented today. [LB590 LR41CA]

SENATOR COASH: Thank you. Take the next testifier in opposition. Is there anyone here to testify in a neutral capacity? Seeing none, Senator Lautenbaugh, you're recognized to close. [LB590 LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. Vice Chairman, Mr. Chairman, and members of the committee. I'm not going to get annoyed here. I'm just going to try to stick with the closing, but often in the closing we respond to things that are said. And one of the testifiers described this as a lifetime crusade and suggested that I was somehow violating the code of honor by bringing this bill again when it passed last year, by the way, and was vetoed and almost overridden. I'm not sure what rule, written or otherwise, would prohibit us from revisiting this issue. And again, I can't stress enough that this is not an academic exercise. We're talking about a few thousand jobs. But let's talk about the code of honor a bit. We heard testimony that somehow, in response to Senator Bloomfield's questions, the information is available to the people who play these historic horse racing machines, but most people don't use them. Do you have to ask yourselves how anyone could know that when these machines don't exist in this state? It's the representation that's made: understand the information is available, Senator Lautenbaugh is correct, but most people don't look at them. Have we done surveys? Do we know? We were told that Gambling with the Good Life has 2,500 people in its database and they send out pleas and somehow this goes out to a network of almost all the churches in the state, not mine, but all the churches in the state are

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part of this network, almost. I got about four e-mails on this topic today and maybe a dozen calls. Who is this group speaking for and are there really 2,500 members? And are almost all of the churches in the state involved in this network? Or is it more likely that you have a very committed group of extremists who don't want the industry to succeed? And you heard testifier after testifier saying we don't mind horse racing, we like horse racing. Ms. Loontjer wants to take the pari-mutuel tax exemption away in the interest of supporting horse racing she said, but, you know, but we all like horse racing. This is important and it would be funny if it isn't so sad that we are killing an industry in Nebraska, not because we're failing to subsidize it but because we just won't get out of the way. And to sit here and say this is not a legitimate business because the dollars don't go to some legitimate business that are invested in Nebraska, there are certainly forms of gaming that that would be true of. But as we've said till we're blue in the face, or red in the face in my case, that's not horse racing. You have from the people who...and this always is difficult for me since I don't know much about agriculture, from the people who grow the horse food, we'll call it, to the people who tend the horses, to the people who raise the horses, to the people that take care of the horses at the track, shoe the horses, etcetera--that's as much as I know--those are all jobs in this state. And the money that goes into the track pays for those jobs and supports that industry. And again, if this is a lifetime crusade, wouldn't you know that? Wouldn't you have made some sort of passing attempt to find out where this money goes and how much of it there is and how much they need and how much a race costs and how much a track costs and where the money comes from and where it goes? As part of a lifetime crusade, wouldn't you have a passing curiosity about the details of the thing that you seem to hate so much? This is maddening and saddening, and we have to do something. And again, this is one of the cheapest things. We're not looking at a budget buster here. We're just being asked to get out of the way, and it's high time we did it. I'd be happy to answer any questions you might have. [LB590 LR41CA]

SENATOR COASH: Any final questions for Senator Lautenbaugh? Seeing none, welcome back, Chair. I didn't mean to take your thunder there. [LB590 LR41CA]

SENATOR KARPISEK: Oh, that's fine. Thank you. That will end the hearings on LB590 and LR41CA and the hearings for today. Thank you for coming. [LB590 LR41CA]