

BRANDT: Good afternoon, everybody. My name is Tom Brandt. I'm a Senator from the 32nd District, Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster County. It's my honor to Chair this meeting today. There really is a committee of eight. Currently, we have three in Redistricting and a number in HHS and one at working in Husker Harvest days, so. It's not for lack of interest, it's more of a timing thing today. So welcome to the General Affairs Committee. We will be conducting today's hearing. We are here today for the purpose of conducting six appointment hearings. If you wish to testify in person on any of the matters before us, we ask that you fill out one of the green sheets of paper that are by the door. If you're here and do not wish to testify, but you do want-- [INAUDIBLE]. We're going to get to the cell phone thing, OK, OK.--to state your support or opposition for any of the matters before us, we ask that you fill in one of these sign-in sheets. If you do testify, we ask you to begin your testimony by stating and spelling your name for the record, which is very important for our transcribers' office. The order of proceedings is that the introducers will be given an opportunity to open. Then we will hear the proponents, opponents, and neutral testimony. We ask that you listen very carefully to try not to be repetitive. We do use the light system in the General Affairs Committee. Each testifier is afforded five minutes to testify. When the yellow light comes on, you have one minute remaining and we ask that you begin concluding your remarks. When the red light comes on, your time has expired and we will open up the committee to any questions that they may have of you. At this time, I'd like to encourage everyone to turn off or silence any cell phones or electronic devices, anything that makes noise. The General Affairs Committee is a committee that is equipped for electronics so you may see members referencing their iPads, iPhones or other electronic devices. I can assure you-- I assure you they're just researching the matters before us. If you have a prepared statement and exhibit or anything you would like distributed to the committee members, we ask that you provide twelve copies to our committee clerk. If you don't have twelve copies, don't worry, provide what you have to the committee clerk. With that, we'll proceed with the introduction of member.

J. CAVANAUGH: John Cavanaugh, midtown Omaha, District 9. Thank you.

BRANDT: I'll just let staff introduce themselves.

LAURIE HOLMAN: I'm Laurie Holman. I'm legal counsel to the committee.

ALEX DeGARMO: Alex DeGarmo, committee clerk.

BRANDT: And our page today is Jason Wendling, and he is from the great city of Chicago. And fortunately, he attends UNL. Thank you. So first up today is-- who do we have on the phone, Paul? Paul Leckband is our first one up. He is-- is this a reappointment?

LAURIE HOLMAN: Yes.

BRANDT: He is going for reappointment for the Nebraska Commission on Problem Gambling. Paul, can you hear us?

PAUL LECKBAND: Yes, I can hear you. And my last name is spelled L-e-c-k-b-a-n-d.

BRANDT: OK. Why don't you go ahead and tell us why you want to be on the Nebraska Commission on Problem Gambling?

PAUL LECKBAND: Well, I've-- I've been on the commission now for, I think at least ten years. I have a lot of experience in education. I was an educator for 40 years and although I retired in 2015, I still try to stay very current with educational issues. And one of the missions of the Gamblers Assistance Commission is to provide education.

BRANDT: OK. Is there anything else you'd like to add at this time?

PAUL LECKBAND: I don't think so.

BRANDT: OK. Now we will go for-- oh, excuse me. Are there any questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, acting Chairman Brandt. Mr.-- is it. I'm sorry, Leckband, is that correct?

PAUL LECKBAND: Leckband, yes.

J. CAVANAUGH: Yeah. Well, thank you for serving for these 10 years and for your willingness to continue. Just as a general question, obviously said education is a big part of the board or the commission. What-- what else is the commission responsible for?

PAUL LECKBAND: Primarily, we're responsible for providing the funds that are appropriate for us to our counselors.

J. CAVANAUGH: OK. So do you-- does the commission then enter into contracts with counselors and those sorts of things?

PAUL LECKBAND: Yes, we enter into contract with our providers. They have to adhere to our regulations. And we-- we have a manual that spells out those requirements to be a provider.

J. CAVANAUGH: And the funds you're talking about, that's-- comes from the funds that-- gambling money that comes into the state, is that correct?

PAUL LECKBAND: Correct. I think-- I think primarily from the lottery.

J. CAVANAUGH: The lottery funds. And for the expanded casino gambling they were going to be seeing in the near term in Nebraska, are you, I guess, as an ongoing member of the commission and going forward, prepared for what I assume will be an increased demand for your services?

PAUL LECKBAND: Yes, we are-- we are assuming that there is going to be an increase in problem gamblers who either they or their families will be seeking our services. And so we're-- we're-- want to be prepared for that influx.

J. CAVANAUGH: And have you found in your 10 years on the commission that the funds that have come in through the current lottery funds been adequate to provide the level of service that is necessary?

PAUL LECKBAND: I think generally they've been adequate. We do have a reserve fund, which we can tap into. And so we're always a little concerned as to whether there will be enough funds in our reserve funds to meet our needs.

J. CAVANAUGH: And is the funds that are in that reserve fund also come from the lottery funds every year?

PAUL LECKBAND: They come from other-- other sources too.

J. CAVANAUGH: Other sources. Thank you. I think I'm done with questions.

BRANDT: Thank you, Senator Cavanaugh. Mr. Leckband, I just-- I just have one question, and that's in regard to funding. And I don't know if you'll be able to answer this, with the oncoming casino gambling will a percentage of that go toward the Problem Gamblers Assistance Fund?

PAUL LECKBAND: I'm assuming that it will. I-- I'm not sure what the percentage will be.

BRANDT: OK. Thank you for that. At this time now we will open up the hearing to any proponent's. Seeing none. Any opponents? Seeing none. Anyone to testify in the neutral capacity? Seeing none. Thank you, Mr. Leckone. Leckband, excuse me. We will now close the-- the hearing and hope to get back to you later this week. So thank you for your time.

PAUL LECKBAND: Thank you. Yes. Thank you. I appreciate it very much. I've really enjoyed my time on the commission and I hope that I can continue.

BRANDT: All right. Thank you. Mr. Zohner?

TODD Zohner: Yes, it is.

BRANDT: Mr. Zohner, I'm Senator Tom Brandt from District 32, and we are going to open your hearing today on your reappointment to the Nebraska Commission on Problem Gambling. Can you hear us all right?

TODD Zohner: I can hear you guys fine.

BRANDT: That's-- that's great. We were a little concerned. I think you're in Holdrege and there was some question about phone service out there.

TODD Zohner: Yep, I found a hill to stand on.

BRANDT: That's great. Why don't you go ahead and open the hearing and tell us why you want to be on the Commission on Problem Gambling?

TODD Zohner: Sure. This would be my second term on it and I have some personal experience with problem gambling. I have a mother-in-law that has had a probably-- problem gambling her whole life. She's lost several million dollars doing it. I also have a sister who is a problem gambler. So I-- I have a real heart for problem gamblers and I think I have a lot of experience about what a family goes through with a problem gambler in the family.

BRANDT: OK. Is there anything else you'd like to add at this point?

TODD Zohner: No. Well, I've enjoyed serving. I think it's a program that is needed. If we're going to have legalized gambling, we-- we definitely need a problem gambling program and I feel good serving on it.

BRANDT: OK. We will open up to questions of the committee. Are there any questions? Senator John Cavanaugh,

J. CAVANAUGH: Thank you, acting Chairman Brandt, and thank you, Mr. Zohner, for being here and willingness to serve. Have you been on just for one term or how long you been on the board for the commission?

TODD ZOHNER: Yes, there's been one-- one 4-year term.

J. CAVANAUGH: OK, and so with your kind of personal experience of folks who've had these issues, have you seen how the services of the Problem Gambling Commission has helped those-- maybe those folks in particular or specifically people in the similar situation?

TODD ZOHNER: Yeah, I think what we try to do is we-- we can't particularly voice our opinion whether we're pro-gambling or not, but when someone expresses that they have a problem gambling, I think our commission tries to its best ability to provide some service to help them with their problem.

J. CAVANAUGH: And has that experience helped you to maybe identify ways the commission could be more helpful or more efficient in helping people, just any changes that need to be implemented?

TODD ZOHNER: Well, I think I was fairly new to the firm-- term that I served, so I'm coming up to speed. It takes a little while to understand all the programs that we-- we try to do and the-- the programs that we try to link up with problem gamblers and yeah, I think that as my first term, I think we've made good progress, especially of me being able to make connections with problem gamblers. I'm not sure that we've arrived where we want to be as providing services to problem gamblers, but we're definitely making progress in connecting with problem gamblers.

J. CAVANAUGH: Well, connecting is the first step, obviously. You kind of already hit on this, but with the upcoming implementation of expanded casino gambling in Nebraska, do you see the board as positioned and prepared for the potential increase in demand-- for the services?

TODD ZOHNER: I think we have a good foundation but we're going to have legalized gambling in the state. From statistics, we know that if we have legalized gambling, especially casino style gambling, about one in 10 people I believe is the national average or maybe even a little higher, but one in 10 people are going to become

problem gamblers. But actually, we're going to need more resources because we won't have a big influence with problem gamblers.

J. CAVANAUGH: Do you know in terms of-- does the commission keep any stance on the number of people whose problem gambling has manifested itself either by gambling, say, well, I'm from Omaha, so I think of Council Bluffs across the river versus people who gamble on things like what we have here, which is the lottery and keno. Do you have any idea about that?

TODD ZOHNER: Oh, I don't think there's been any [INAUDIBLE] studies as far as the keno. What we have now, unfortunately, gambling doesn't garner a lot of attention when it comes to financing studies, because you are competing against fairly big money that want gambling. So, is there-- I think somewhat reluctant to sponsor studies that-- that link how maybe lottery tickets or keno or other things would affect people, but, you know, I don't know of any statistics that knows that, how much increased staffing. I just know from reading studies that-- specifically slot machines. When you bring slot machines into the individual equation, they are the most addictive of all the gambling that there is around and I believe it's somewhere around [INAUDIBLE] percent, maybe a little higher, that people will become problem gamblers.

J. CAVANAUGH: OK, thank you.

BRANDT: Thank you, Senator Cavanaugh. Mr. Zohner, at this time, we're going to open up the hearing to the public. And I would ask, are there any proponents? Are there any opponents? Is there anybody here to testify in the neutral capacity? Welcome.

LYNNE McNALLY: Thank you, interim Chairman Brandt. Lynne McNally, L-y-n-n-e M-c-N-a-l-l-y, appearing on behalf of the Nebraska HBPA. That's the Nebraska Horsemen. First of all, as one of the writers of the three initiatives, two and a half percent of the casino revenue will be allocated to the Problem Gambling Commission. I do know that the executive director of the Racing and Gaming Commission, Tom Sage, has been in contact with them and they're drafting some rules and regs around self-exclusion, those kinds of things right now. So they've been working very well with him to get all of that going to ensure that anybody that has difficulty can access help immediately and that they can self-exclude if they wish to. I would like to disagree with the-- with the current appointee. One in 10 people do not have a problem. That would be 10 percent of the U.S. population. That is not correct. It's less than 1 percent. Those people that--

TODD ZOHNER: No, excuse me. Those were one in 10 people who gamble.

BRANDT: Excuse me, Mr. Zohner, you're going to have to stay quiet until the testimony is over.

TODD ZOHNER: Sure.

BRANDT: OK, can you mute him? OK.

LYNNE McNALLY: It's less than 1 percent and those are people that-- that we don't want in our facilities anyway. So we're actively working with the Problem Gambling Commission to develop some-- some guidelines and some rules so that we can-- not only keep people away from that if it's a problem, but also to give them some help. And I would like to add that the Problem Gambling Commission in Nebraska, even though gambling is not legal in the state of Nebraska, they have extensive experience with casino gamblers. They're just Iowa casino gamblers. So, you know, they live here in Nebraska, but if you call the problem gambling number for Iowa, the 800 number, they-- the first question they ask you is where you live. And if you say that you live in Nebraska, they will not help you. So you're actually getting people that-- that have a problem in Iowa, the help that they need now with some additional resources and money with LB431 passing. So that's all I had to add.

BRANDT: OK. Are there any questions for this testifier?

J. CAVANAUGH: No. Thanks for coming.

LYNNE McNALLY: Thank you.

BRANDT: Yep, thank you. Anyone else to testify in the neutral capacity? Seeing none. Thank you, Mr. Zohner, for appearing telephonically today and that will conclude our hearing for this appointment.

TODD ZOHNER: All righty. Thank you.

BRANDT: Yep. This is the next one?

LAURIE HOLMAN: Yep.

BRANDT: Mr. Dan Volnek, come on up.

DANIEL VOLNEK: Hello.

BRANDT: Welcome. Can you state and spell your name for the record, please?

DANIEL VOLNEK: Legal name is Daniel Volnek, V-o-l-n-e-k. I would be a new member to the commission. I feel I have a unique perspective as a recovering-- as a recovering gambling addict. I've been clean for 15 years. Almost lost my wife and daughter, spent time incarcerated in the state pen for gambling and stealing money. I'm a convicted felon.

BRANDT: Is-- do you have anything else to add?

DANIEL VOLNEK: No, but I'd be happy to answer any questions.

BRANDT: OK. Questions of the committee? Senator Cavanaugh.

J. CAVANAUGH: Thank you, acting Chairman Brandt, and thank you, Mr. Volnek, for being here and bringing your unique experience to serve us on this commission. So this is a new appointment, you haven't been on commission before.

DANIEL VOLNEK: Correct.

J. CAVANAUGH: Did you ever seek the services of the commission before this?

DANIEL VOLNEK: No.

J. CAVANAUGH: OK. Do you have any-- I guess, have you looked at what they're currently doing and how they're--

DANIEL VOLNEK: I've been to one meeting is all.

J. CAVANAUGH: Do you-- obviously, with your different perspective, have any suggestions about changes and ways to improve-- be more helpful to service people?

DANIEL VOLNEK: Not at this point. I would be lying if I gave an opinion either way on that. I just haven't been involved that much yet in the commission, but I do want to help others, so.

J. CAVANAUGH: Fair answer. And I've kind of asked this of a lot of people for new appointments, but how did you come to be interested in being appointed? How did you find out about the opening? Did somebody recommend it or--

DANIEL VOLNEK: Deb Hammond from Choices Treatment Center recommended me to the-- to the commission and she was the one that brought me into my sobriety. A Choices Treatment Center is here in Lincoln.

J. CAVANAUGH: Do you know, are they a contracted provider with the Problem Gaming Commission?

DANIEL VOLNEK: I'm sorry, I'm hard of hearing too.

J. CAVANAUGH: I'm sorry. I talk quiet sometimes. Are they a contract provider with the Problem Gaming Commission, do you know?

DANIEL VOLNEK: Yes.

J. CAVANAUGH: OK. So you've had some interaction then with the services that they do provide, I guess.

DANIEL VOLNEK: Correct.

J. CAVANAUGH: Well, I really do appreciate it. I think your perspective is going to be very helpful on the commission and I appreciate people, you know, taking-- willing to put yourself out there and do this. So thanks for being here today.

DANIEL VOLNEK: Certainly.

BRANDT: Thank you, Senator Cavanaugh. I think you could provide some insight into the problem we're trying to solve. Do you see a differentiation between different types of gambling as to its severity?

DANIEL VOLNEK: Oh, absolutely. I was doing this, you know, 19, 20 years ago, before smartphones were available, before legalized gambling was available. I was doing it all through the Nebraska lottery, went through-- I don't even know what the correct name is for it, but all through the Nebraska lottery, I was buying, pick five, two-by-two tickets. So it's a completely different world than when I was doing it 18 to 20 years ago. There are just more-- way, way, way more opportunities to gamble.

BRANDT: OK. Thank you for your testimony. We'll open it up to the public so you can--

DANIEL VOLNEK: OK.

BRANDT: And right now we'll ask, are there any proponents? Welcome.

DAVID GEIER: Good afternoon, Senator Brandt. I'll fill out a sheet after I get done here.

BRANDT: OK.

DAVID GEIER: David, D-a-v-i-d, Geier, G-e-i-e-r-- excuse me. I'm the director of the Nebraska Gambler Assistance Program. That's the program that is managed by the Commission on Problem Gambling. Dan Volnek brings valuable experience. We have a nine-member commission. By statute, two of our members must be gamblers, rehabilitated. People who have used the services of our program. They bring a perspective that the other seven members don't have. In fact, I don't think any of the other seven members have gambled at all, or if so, not what anything remotely like what the people who become addicted experience. For the record, too, I want to state that we keep lots of statistics about all kinds of gambling activity and about the people that come to our program. We have filed two reports a year, one with the Legislature, Governor and the second one with this committee in the spring, that detail all kinds of data and history about what we're doing. And I have an Excel spreadsheet that we're working on that will-- your eyes will pop out of your head when you see some of this stuff. We got years of data accumulated and we'll be reporting on that frequently to the commission and make it available to the public at all times. We're doing everything we can to get ready for these casinos. We think that they probably won't be open for several months. But in the meantime, we're streamlining our training, coming up with all kinds of outreach programs to enlist new counseling services so we can get ready so we know what's coming. That's all.

BRANDT: OK. Are there any questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, acting Chairman Brandt. Thank you for being here and for what you do. And I guess in terms of that report, I'll look for it. But just as a question, the data you collect, does it cover that kind of people who are seeking services and what their, I guess, game of choice is or--

DAVID GEIER: Yeah, we-- we gather information from everybody who's first admitted and then periodically during that period of time that there is counseling and then when they're discharged, so we-- we cover the whole spectrum. But the first admission data includes how old were they when they started gambling? Who influenced them to gamble? What kind of gambling did they do, first off? What kind of gambling have they done more recently? How much debt are they in as a result of gambling? What kind of problems are they having? Have they contemplated suicide? All kinds of topics like that, which are all

important to this population of people we serve and it's also important to our counselors to understand these things. And I think also the commission needs to understand it, too, and the public.

J. CAVANAUGH: And when somebody gets into your program, how long is that time of the program?

DAVID GEIER: We allow counseling-- counseling indefinitely. There-- there really isn't an end date. There's a-- there's a turnover of people who come in seeking help. A significant number of them stopped coming for counseling after a certain period of time. We don't really know for sure all the reasons why, but we offer it indefinitely. We have some people who have been in counseling it, you know, in a low level, but for several years. Addictions don't go away.

J. CAVANAUGH: Is there any charge for the counseling?

DAVID GEIER: It's free to the-- again, one of the things we have the ability to do is offer free counseling to the people who come asking for it. No charge.

J. CAVANAUGH: Do you have any of those stats in terms of people who stop and relapse or anything-- relapse stats?

DAVID GEIER: We do keep track of what-- is this your first time or have you been in counseling for gambling before? Yes, we have. Actually, the number who come back after a relapse is fairly small. Again, it's hard to keep track. You know, once-- if somebody comes for a while and then they just don't show up anymore, we don't necessarily know why. Sometimes we do. Sometimes we don't. It's hard-- it's hard to keep track of that. And this is common in addiction services all over, of all kinds of addictions. It's not just gambling, but drug and alcohol is a similar kind of a problem. And that is getting people first to recognize that they need the help and then getting them to stick with it and be committed to it until the end. It's very difficult.

J. CAVANAUGH: How do you address the kind of co-occurring? I mean, a lot of people probably have alcohol and drug dependency as well as a gambling dependency.

DAVID GEIER: Nearly all of our counselors are licensed mental health practitioners as well. They're also trained in drug and alcohol counseling. So our-- our counselors are required by our manual to pay attention to co-occurring. There's an awful lot of overlap, comorbidity. Sometimes you can't know whether the addiction to the

alcohol came first or the addiction to the gambling came first. It's hard to sort it out, but-- but we are required-- we require our people to keep track of that and we do monitor that too. It's-- again, it's one of the more difficult aspects of what we do, but the rate of co-occurring disorder in this particular field is very high and comorbidities are a serious problem with this population.

J. CAVANAUGH: Well, I appreciate you being here and obviously it's going a little bit far, I feel, but I appreciate the answer to questions.

BRANDT: Thank you, Senator Cavanaugh. Mr. Geier, how many years have you been the director of the--

DAVID GEIER: I started in 2014. So this is seven years, I guess.

BRANDT: So you've seen a lot in that time. What would a typical problem gambler in Nebraska look like?

DAVID GEIER: Like you or me. You can't tell what they look like. This is one of the differences too. You can usually spot a drunk, a drug addict. You can't spot a gambling addict. You take a look at the gambler that just sat in front of you. You couldn't have told anybody that he was addicted to gambling and that's part of the problem. That the cross-section of our population represents basically Nebraska people, education, employment, all the characters. Demographics are virtually identical to our population of the state as a whole.

BRANDT: Senator Cavanaugh asked earlier and sort of alluded to, what percent of the gambling problems come from outside of the state. I know with these devices, these cell phones and computers, you can go overseas, you can go over the bridge to Iowa. Nebraska currently just has parimutuel and lottery. But of the problems that you see, what percent are generated in Nebraska versus outside of the state?

DAVID GEIER: By far the largest contributor is casino slot machines, has been for years, still is. Now we know that those are in the surrounding states, not inside our borders. Sports get it, gambling is starting to catch up. Keno was fairly high, but it's drifting down a little bit now. Lottery tickets, very small. Scratch tickets, fairly small proportion. Once you get past slot machines and now with sports betting, is it's catching up. It drops off pretty quickly to the other categories of gambling. There are a lot of people that dabble in two or three different forms of gambling. But again, I'd say for the most part it's the, what we call electronic gaming machines, which are-- you've heard about them, the skill games, the

mechanical amusement devices that dispense cash. Those are-- have been a very big problem for our program because they resemble slot machines. People who play them think they're slot machines. So, you take that category of device, that attempts a lot of people, and it sucks a lot of people in. Slot-- casino slot machines until now, Council Bluffs.

BRANDT: OK. Final question. You have a unique opportunity here today. Two gentlemen following you will be on the Racing and Gaming Commission.

DAVID GEIER: Yes.

BRANDT: And what advice would you give them for-- for what's about to happen with our gaming in Nebraska?

DAVID GEIER: I've been working very closely with Tom Sage and I know Commissioner Fulton. In fact, I met with the two of them a couple of weeks ago to talk about what we're doing. We're doing everything we can to help them get started for what's coming. They-- Tom Sage has got some pretty good ideas about regulations on the subjects that we care about, which is self-exclusion and training casino staff workers. Training casino staff to recognize the problems, problem people. So we're-- we're working closely with them on those subjects and good, good level of cooperation. No problem. I think that our Racing and Gaming Commission is going to be very concerned about not having big problems in Nebraska. We've had some history of big problems, mainly the casinos in Council Bluffs, but Nebraska people have gotten very much involved. And there's been some notorious cases about that. We don't want that to happen again.

BRANDT: OK. Well, thank you for your testimony, Mr. Geier.

DAVID GEIER: Thank you.

BRANDT: And at this time, are there any more proponents? Are there any opponents? Is there anybody to testify in the neutral capacity? We will close the hearing on Mr. Dan Volnek. Thank you for coming today. Who's next?

LAURIE HOLMAN: Ms. Lowe.

BRANDT: Ms. Lowe. Welcome to the General Affairs Committee.

KIM LOWE: Good afternoon, acting Chairman Brandt, and Senator Cavanaugh. My name is Kim Lowe. That is. K-i-m L-o-w-e, and I am from

Kearney, Nebraska. I come before you today to ask that you approve me to be one of the commissioners on the Liquor Control Commission. I have been serving in this position on the commission since June of this year and I've attended and I've studied and done the background prior to every meeting. As the youngest of six children, I have been active in the past in my family's contracting and residential and commercial property management by doing the books, collecting money, dispensing monies, pouring cement, painting and general maintenance of all the other properties. I've been active in our local outreach of suicide survivor group in Kearney. You all know that my husband and I have been in the liquor business for many years and decided to leave it when he was elected five years ago. We have opened and ran five different businesses over the years, each one different from the last and each one taking a different energy to run. Being in the business, we have dealt with the three-tier system and fully understand its benefit and its challenges for microbreweries and wineries running limited in two of the three categories to distributors keeping the flow of product to the retailers. This is, I think, one of the most important commissions in Nebraska as it deals with the balance of liquor and how it affects the citizens of Nebraska. Many people do not believe in alcohol or the use of alcohol, while many others kind of wish we just keep our noses out of their glasses. Is-- it is that that we learn to walk on a very tight rope and keeping control of the products that can be beneficial or a curse. Thank you very much and I'm happy to answer any questions.

BRANDT: OK, thank you. Are there any questions from the committee? Senator Cavanaugh.

J. CAVANAUGH: Thank you, acting Chairman Brandt. Thank you, Ms. Lowe, for being here. Nice to see you again. So in terms of other folks who serve on the Liquor Commission, do you know, have any of them any similar background where they've worked in--

KIM LOWE: As far as I know, no, sir, they've never had a person on the other side of it.

J. CAVANAUGH: And I know you said you been-- I can just see the number of places that you've been a part of. Do you have a-- obviously, have a perspective from having that experience. Are there things that you experienced on that side that you're bringing to the board now and saying, hey, you guys know the industry really hates this and we could make it better this way, make it more efficient, we could update, those sorts of conversations. Obviously haven't been officially on so maybe not engaged in those conversations, but--

KIM LOWE: I was at one hearing where I just simply asked a question and a couple other people kind of looked at me and said, wow, that's a perspective we don't normally hear from, and they were thankful that I asked it from being on the other side.

J. CAVANAUGH: A fresh perspective.

KIM LOWE: Yeah.

J. CAVANAUGH: Well, I don't have really any other questions, but I appreciate your willingness to serve and to take on this new role in preserving our system of keeping your nose out of people's glasses. I like that line.

BRANDT: Thank you, Senator Cavanaugh. So this job is about managing risk. I mean, gambling and liquor and things like this are a risky business. There's a lot involved with it. And you'll be in a unique position to tell the Legislature where the problems are. And I think you, knowing your background, will have a great perspective on being on both sides of this. And I realize you've only attended three meetings so far, but do you have any observations you can share with the Legislature about maybe where Nebraska needs to tweak, or you think we've got a great system right now, we need to change nothing.

KIM LOWE: There's always improvement for change.

BRANDT: OK.

KIM LOWE: There's always good there. I mean, I don't know if I've sat long enough to know all of the areas, but I'm never opposed to seeing if there could be a change.

BRANDT: OK, so you have nothing specific at this time?

KIM LOWE: No, not at this time, I'm-- not happening enough.

BRANDT: OK. I think that answers the committee questions for this time. Thank you. And we will open it up to the public. Are there any proponents? Are there any opponents? Is there anyone to testify in the neutral capacity? And with that, we will close the hearing on Kim Lowe. Thank you for-- for appearing today and we will move on to-- is it Mr Greckel? You're up. Welcome.

SHANE GRECKEL: Thank you, acting Chairman Brandt, Senator Cavanaugh. For the record, my name is Shane Greckel, S-h-a-n-e G-r-e-c-k-e-l, and this would be a reappointment to Racing and Gaming for myself.

BRANDT: OK. Can you tell us a little bit about why you want to be reappointed?

SHANE GRECKEL: In a nutshell for that one. I bring to the table a lot of experience, a lifetime of experience in the equine industry for riders as well as equine professionals from showers, trainers, all the way. So I want to make sure that they're well-represented and they are well-protected throughout the state. Also with the advent of LB431 and the passage of LB561, I've been actively studying, familiarizing myself with casino gaming industries to try to make sure that the best possible decisions are well made and that the citizens of the state of Nebraska have the most educated individual on the Gaming Commission as well. With that, I feel it is my duty, my obligation to-- to make sure that I'm educated on it, to make sure that the will of the people in Nebraska is carried out, and to make sure that the-- excuse me, the will of the Nebraska Legislature is also carried out. I'd like to further stipulate and thank the individuals that we heard previously from-- from the Problem Gaming Commission and the work that they do. It is really wonderful that they are around here. They can do it. Thank you.

BRANDT: OK, thank you. Are there any questions from the committee? Senator Cavanaugh.

J. CAVANAUGH: Thank you, acting Chairman Brandt, and thank you, Mr. Grekel, for willingness to serve here. Obviously, when you were appointed to the Racing Commission, it was a different animal is at work than what it has become and your willingness to continue serving and taking on the new role is admirable. So you kind of, I think, hit on this question, but, you know, gambling is still sort of a-- I guess, contentious issue in Nebraska, even though the voters have spoken and we've adopted LB561 as you alluded to. Do you see the role of the Racing and Gaming Commission as implementing the statute and allowing gaming to begin as soon as practicable, or do you think there's still a role to slow it down? How-- how are you going to approach, I guess, that timing issue?

SHANE GRECKEL: Kind of a complex question on there, but I thank you for it, Senator Cavanaugh. Any of this would be my own personal opinion. I couldn't speak for the commission in any way possible. However, I think it is absolutely imperative that we work towards the goal of what the Nebraska voters passed last fall, also from what, the passage of LB561 from the Legislature. And to work within those parameters, seek guidance when we need necessary, but to carry on in a reasonable fashion, which all citizens of the state expect our government to do in any facet, but also with caution. This is a new

industry, brand new to our state. And I think it is absolutely imperative that we as a commission take it slow enough and realize all the different angles of this, much like when senators are elected. I've heard that it's like drinking from a firehose with information and thus is the same here with the gaming industry. And I think it's very important that we take time to listen to individuals such as prop in gaming, listen to counties, cities where these industries are going to be located as well. These are statewide issues. However, they're also local issues as well and there's many facets that need to be taken into consideration, in my opinion.

J. CAVANAUGH: I appreciate that and kind of to that point, you know, I kind of talked about this. It's become a different thing than when you were originally appointed to. Obviously, it's got to be more time consuming than it was before.

SHANE GRECKEL: Certainly, it is.

J. CAVANAUGH: And, you know, maybe when you agreed to be on the Racing Commission originally, you had a, I guess, schedule planned out for how you're going to handle your daily or monthly obligations. Are you finding that that's not going to be a problem going forward or are you going to be able to handle, I guess, the extra workload upsetting your life too much?

SHANE GRECKEL: I welcome the challenge to be quite honest with you. I had the opportunity to attend a few-day gaming, learning. I had been out in Colorado not too long ago to look at new ideas and with the Colorado Gaming Association had and I welcome that extra challenge and a little bit of extra workload there. I do think it's a great opportunity to serve, you know, not only the state, but the individuals involved in this who work so hard to get this new industry and let it also be known that this is new industry, new job growth as well. And I think it's quite an honor to be chosen to help bring this up and serve with this industry and grow it as well and make sure, like I said, it's in accordance with our state law and making sure that people's will is enacted.

J. CAVANAUGH: And I guess you said that a couple of times about the people's will and I-- and I agree with you on that sentiment. In terms of this matter, obviously, conversations about other ways to maybe constrain or change the system. Would you view the role-- your role or the commission's role as just implementing whatever it is that the law is that we tell you or to weigh in on what the law should be going forward?

SHANE GRECKEL: Interpretation of the law, in my opinion, is reserved for the Attorney General and the courts, not so much a commission, in my opinion.

J. CAVANAUGH: I meant just an implementation, not a law.

SHANE GRECKEL: Yeah, implementation would be more so of a committee choice and how they handle it. But again, since this is such a new industry, I think working with the Legislature, working with our executive branch hand in hand, making sure all of these rules and changes are implemented correctly, I think that is absolutely necessary and smart for our commission to do as well.

J. CAVANAUGH: Thank you.

SHANE GRECKEL: Thanks for the questions.

BRANDT: Thank you, Senator Cavanaugh. Currently, there's five members on the Racing Commission. Now it's the Racing and Gaming Commission. The Legislature authorized two more spots. If those spots had not been filled or not filled, can the commission go ahead and approve the gaming with the five-man commission or do all seven spots have to be filled?

SHANE GRECKEL: I believe that is a question that we have rolled around a little bit and I believe we have six on our commission right at the moment.

BRANDT: OK.

SHANE GRECKEL: If I'm not mistaken, and again, a lot of this has to come back to the Attorney General's opinion and how they view it, how a quorum is perceived. I want to reserve judgment until any of those opinions come back. But if it is a legal quorum and it is legal in every constitutable way, then I think our business could carry on.

BRANDT: Well, I guess my concern is this, is that you guys get your act together, you get all your rules approved, we have applications for seven casinos, or six casinos. And for lack of filling one position, you can't act until that position gets filled, appointed by the Governor. And that's-- that's the gist of my question is, can you proceed? I would assume it would be no different than if somebody resigned from the board or there was an opening on the board that if you had a majority that you could go forward.

SHANE GRECKEL: Definitely. Again, this is kind of a unique scenario so I would defer to counsel. I would defer to the Attorney General's office, making those-- making those ideas for-- or making those opinions first before we proceed on. But again, I think making sure that we carry it out in an expedient manner is-- is paramount.

BRANDT: So what have you learned about casinos so far?

SHANE GRECKEL: I learned a lot. The opportunity that we were afforded out in Colorado showed us the intense security that they bring the-- the care for their individuals. The individuals coming into the casino, not just a number from what we've seen, they truly care about them. Self-exclusion is very much in their front line. They want to make sure that those individuals are helped. But just like any other business, they want to make sure they're happy, they're entertained and that they are enjoying the life. But make sure that they are obviously protected is one of the paramount goals.

BRANDT: OK. Final question. I like racehorses. Nebraska was one of the top-10 racing states when I was growing up and in the early 80s and unfortunately with the demise of Aksarben, the whole thing just snowballed. In my personal opinion, we are in a train wreck. So now we are going to have six casinos that need Nebraska bred horses. This is an industry and I have the pleasure of serving with Senator Cavanaugh on the Ag Committee that is just waiting to happen. And, hopefully, and I would like your opinion on this, is the money from the casinos will help supplement and get the equine industry going again in Nebraska. And I know there's an effort by the ag leadership in the state to try and assign some ARPA funding for that just so that you're aware of that. Do you have an opinion on that?

SHANE GRECKEL: Well, I think it's absolutely wonderful that we even have the opportunity to bring up our per structures within Nebraska racing. You know, larger per structures mean more interest. We just seen it at Fonner Park at the beginning of last year. More and more individuals coming in just on the premise of gambling and larger purses, they want in line. Those are extra people coming to our town spending money, making sure that our industry is growing. And I hope that happens in every single race course that we have. I do believe that it is a wonderful opportunity that is being afforded to all of them.

BRANDT: Is there something that the Racing Commission can do working with the Nebraska Department of Ag or the University or Department of Economic Development to popularize this industry to make people aware that-- that you, too, can participate in this industry. You can board

horses, you can buy-- you can grow high-quality feeds. And there's any number of entry points into this industry and it's a profitable niche for agriculture. Do you have a program to ramp that up inside the state?

SHANE GRECKEL: I don't know if we have a program yet, we're developing a multifaceted structure to look at new casinos and racing, those coming in, to make sure that they prioritize Nebraska grown products, Nebraska raised products coming in. That's still in the works. And we'll see that in the rules and regulations coming out. But I agree with you. I think it's paramount that we develop something. That's a very thin line, though, that we have to go down. We have to promote agriculture, which I am a huge advocate of. And any time that we can promote Nebraska agriculture and get that extra dollar into those growers' pockets and provide high-quality product to those users, I'm all for it. But at the same time, we have to understand and make sure that we're not advertising casino gambling in other adverts and to popularize them. I want to make sure that the safety of our individuals is protected paramount, as well as agriculture being represented the best we can.

BRANDT: All right. Senator Cavanaugh.

J. CAVANAUGH: Thank you, acting Chair Brandt, made me-- your great questions made me think of some new questions.

SHANE GRECKEL: No problem.

J. CAVANAUGH: So, Senator Brandt said, I think there's seven applications pending. Does that sound about right?

SHANE GRECKEL: Yeah, there's a few.

J. CAVANAUGH: Do you have any idea by which criteria the applications, those or any in the future, would be judged or potentially denied? Or is the role of the commission just to grant applications that qualify?

SHANE GRECKEL: I believe the role of the commission in this particular standpoint is to outline those rules and regulations that are coming forward that need to be adopted, approved by the Governor's Office and as well as Secretary of State. And those are going to outline some of the parameters that need to be for these new industries and for existing. The legacy tracks, as I like to call them, we're going to have to follow a standard as well, just like the new ones for pre-built structures and new structures coming in. And I

think that is the job of the commission to outline those and make sure that precedents are set, safety measures are taken in place, and all other aspects of it

J. CAVANAUGH: To make the regulations which they're going to oversee these establishments , but you also are going to be granting the licenses.

SHANE GRECKEL: Correct. And the license are going to be, in my opinion, probably would hinge on qualifying factors, stuff like that. Again, there was in the working matrix level that we looked at. I don't know if it's implemented yet. I don't know where it's at in any rules and regulations, but such matrix, the last time I seen it, took into account for localized-- local aspects, local opinion, you know, supply, demand and location actually to the other nearest legacy track so that there is not "overpopulization" either.

J. CAVANAUGH: And when you say legacy track, you mean currently existing track?

SHANE GRECKEL: Yeah, that's the way I'm just-- that's the way I'm referencing, just in my opinion.

J. CAVANAUGH: Well, we can all, I assume, I think safely that there will be probably more tracks will open in the state of Nebraska going forward.

SHANE GRECKEL: Yeah, I-- I, again, I have to reserve judgment until I see the--

J. CAVANAUGH: Yeah, that's more my speculation that you're just subjected to my speculation.

SHANE GRECKEL: Yeah, um-hum. [LAUGHTER]

J. CAVANAUGH: Well, thank you. Appreciate it.

SHANE GRECKEL: You bet. Thanks for the questions.

BRANDT: OK, thank you, Senator Cavanaugh. One final question. Have you asked for an Attorney General's opinion about operating with six members?

SHANE GRECKEL: I believe that has been asked. I don't know if there is a result. I would have to check back with you, interim chairman, and I can definitely let you know of the position of that.

BRANDT: Please do. Please get back to Laurie here and she can distribute it to the committee when that comes back, so.

SHANE GRECKEL: I certainly will.

BRANDT: So with that, we will let the public have their shot here. So thank you for your testimony. Right now, are there any proponents?

LYNNE McNALLY: Good afternoon again, transitional Chairman Brandt. I prefer to call you that. Lynne McNally, M-c-N-a-l-l-y, representing the Nebraska HBPA in support of Commissioner Greckel's appointment to the Racing and Gaming Commission. Commissioner Greckel has been a very strong member of that commission. He's extremely knowledgeable. He's been in the equine industry for, I think basically his whole life. He's got a really strong interest in it. And I will tell you, as someone who appears in front of him regularly, he's probing in his questions. He's tough, but he's very fair. And I think that's really the ideal that you want for somebody that serves on the commission. He's very involved. He's very interested, and he does his homework. When you come to the commission, you can tell that he's read his background materials and he knows what the subject matter is when there's an agenda item up. So I could not recommend him more highly. He's been a great addition and especially considering the job that they're about to undertake, I think you'd-- we desperately need his expertise at this point with the racing in order to propel the Racing and Gaming Commission forward. I would very greatly appreciate it if you recommended him for appointment.

BRANDT: OK. Thank you. Are there any questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, acting Chairman Brandt, and thank you, Ms. McNally, for coming in here again. You kind of heard my question earlier about--

LYNNE McNALLY: Yes.

J. CAVANAUGH: --more tracks. Do you have any, I guess, insight into whether there is interest in people getting new licenses for racetracks?

LYNNE McNALLY: I have fairly strong opinions about that. [LAUGHTER]

J. CAVANAUGH: Any-- any you want to share?

LYNNE McNALLY: As you know, the Horsemen are the property owners of the Lincoln and Omaha racetracks, which are-- which just happen to be

the largest markets in the state of Nebraska. You're in a very unique position in the state in that the Horseman's organization is the only organization in the country that owns their own racetracks. So all of the revenue from the partnership with workers from those casinos will go directly back into the industry. We don't have private investors. We don't have anybody that can put money directly in their pocket from any of this revenue. The revenue must go out into the industry by our charter, basically. So we are all about promotion of racing. We're all about promotion of Nebraska horse racing in particular. To answer your question, Senator Brandt, we've been working very closely with the breeders. We have a concern as well. There are currently 38 registered thoroughbreds with the ability to race in the state, but it doesn't provide for very many live race dates because, as you know, according to statute, you must have a Nebraska bred race in order for it to count as a race day. So we've been actively working with them about how we can promote dropping foals in the state, bringing horses in from other states that were, I would call them, Aksarben quality horses. Horses that run for more money that-- that can attract a better quality of horse in the state. And, you know, members of my industry have been doing the best they can, considering they're running for a \$3,500 purse, which is the lowest in the country. We would love to get back to being one of the top-10 tracks in the country. That's what our goal is. And we're going to keep working until we get back there. I think that our plans are phenomenal in terms of attracting those kinds of races. For example, we're going to have the only hotel at a racetrack in the United States where you can watch races on the finish line from your room. So we're doing everything within our power to provide a top quality level of racing in the state, and every single penny of our portion of the revenue will go back into the industry. So we've hired for the first time a marketing agency. It's the first time we've had the funds available to do that. And I'm very interested in what you think might be opportunities for us to work with the university or other ag-related industries to try to get more people to provide hay, more people to provide services, tech services. We are in desperate need of horse shoers, exercise riders-- across every sector. I guess we're like the rest of the state of Nebraska right now, we just desperately need workers. So I-- after-- after the hearing, I would like to talk to you about that if you-- if you have any suggestions for me to access resources because we are ready, willing and able to market those opportunities, we just need to hone in on what they are.

J. CAVANAUGH: Thank you.

BRANDT: Thank you, Senator Cavanaugh. I guess in regard to that education component, our community colleges are first rate?

LYNNE McNALLY: Yes.

BRANDT: Northeast, southeast, central-- any of these community colleges would probably support some equine program and there may be one of them out there already that you guys could expand on with the racing component. I think inside the state of Nebraska, that's probably the population you need to go after.

LYNNE McNALLY: Yes, and I agree.

BRANDT: I don't know if there's any farrier of schools left in the state or not, but there's a few of those-- those people around. But with the industry growing, I can see-- see that component growing. And I guess the last comment that I'll let you respond is, couldn't you jumpstart the industry with a horse amnesty program and give the horse industry a one-time shot inside of one month here to bring horses in and we'll certify as Nebraska bred to up those numbers?

LYNNE McNALLY: I think that the breeders are considering that. That's not our purview. They're a separate organization, but we work very closely with them. They're considering all options about, you know, being able to ramp up quickly. I know for a fact that there were at least 50 to 60 broodmares that were purchased at Keeneland this year. So I do know that in three years we're going to have a huge influx of new horses. But, you know, they don't run until they're three. So, you know, we're going to need something to fill in that gap, I think. And I think probably you're on the right track there. The other thing I was thinking, possibly since I was at Husker Harvest days yesterday and I'm going back tomorrow, was maybe marketing to farmers about specific crops they could grow and that, you know, the-- the money per acre they could get for, you know, hay and that kind of-- the things that we need versus maybe a corn crop or something. That was just a thought I had in my mind.

BRANDT: I would advise you to work with the extension agents that are local to those tracks, so--

LYNNE McNALLY: That's a good idea.

BRANDT: --all county-- you get that extension agent, he can put out the word in the whole state.

LYNNE McNALLY: That's a great idea. I didn't think of that.

BRANDT: OK.

LYNNE McNALLY: Thank you.

BRANDT: Well, thank you for your testimony. And are there any more proponents? Are there any opponents? Is there anybody to testify in the neutral capacity? With that we will close our hearing. Thank you, Mr. Greckel, for-- for appearing today. And we're saving the best for last. Welcome, Director Fulton.

TONY FULTON: Thank you, acting Chair Brandt, and members of the committee. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I appear before you today in a different capacity than I have in recent weeks, and that is as a newbie appointed to this new commission-- is a new commission. So I-- I'm just going to be straight-up honest here. That's how I do it. The Governor asked if I'd consider doing this. One of the provisions of law, considering the two new members, so the existing Racing Commission are considered ex officio members and then there are two appointees. One of the appointees has to have experience in the Nebraska gaming industry. And we didn't have casino gam-- no gambling before this. There's not a whole lot of people who fit that bill. Part of my responsibility as tax commissioner is the Nebraska Lottery-- Lottery and Charitable Gaming. So I've been doing-- working in that regard since I've been the tax commissioner for five, whatever it is, five years or something like that, six years maybe. So I do have experience in the gaming industry through my work with the Lottery and Charitable Gaming. For that reason, I think the Governor approached me as potentially considering this. So I do have a lot of things on my plate, but this is something for which I had a passion. When I was in the Legislature, I was actually one of those voices against expanded gambling for the very reasons that kicked off this hearing. I did not and do not have any issues of principle against gambling. I tell people I'm Catholic. We have that in our churches a lot. Mine had to do more with what I felt were the social consequences of gambling. And so that was my tenure in the Legislature. So it's not like I don't have any experience in this field. I do, much the same way that you may have garnered experience. I had to because of my responsibilities as a Senator. That being said, I was-- Fred-- Fred Knapp, one of the reporters for Nebraska, for NET news, he asked whether it would be appropriate for me to be a commissioner because of my history, my background against expanded gambling. And I answered him in a bit of a snarky way. But I-- I share it with you because it does encapsulate a reality that I think you might appreciate. When I was a Senator, I was against-- I was an anti-tax

Senator. I was a tax cutting Senator, and that's why I ran and lo and behold, they made me the tax collector. So I take that job seriously. That's my job now and so, that's different than when I was a Senator. Same applies here. The way I see this, Nebraskans voted. It's very interesting how they voted on this. If I get asked the question about-- if I get an opportunity, I won't do it here. The math behind the different votes that have occurred in the past, it's to me illuminating and informs what hopefully, if you'll confirm me, what my service on this commission would be, and that is, people have spoken. This is what they want. And so we need to get it done, get it done right. Don't screw it up. And that's something else that I think I can bring to this commission. You've got my background. I've done a lot of things. So-- so, yeah, so when asked, I considered it, considered it fully. Recognize it's going to be a heavy lift, but I go into it with eyes wide open and then, of course, you've got five-- five commissioners have been able to help me cut my teeth. So, so that's why I would like to serve on this commission.

BRANDT: OK. Well, let's see if there's any questions from the committee. Senator Cavanaugh.

J. CAVANAUGH: Oh, thank you, acting Chairman Brandt. Thank you, Commissioner Foley (SIC Fulton), for your willingness to put more on your plate. I understand that. I kind of asked that same question of Mr. Greckel about, you know, the sort of expanded activity, of course. And, you know, I appreciate the sentiment about let's get this right and let's do it going forward. And I guess this is not specifically about you, but it's kind of a learned experience for some people in the state where those voters have spoken and the state itself has been slow to implement. I mean, I assume you know like talking about things like Medicaid expansion, but the voters voted and it's taken way longer than I should have to implement. And I think that I'm more of like a middle of the road Catholic in terms of my opposition to gambling. I don't have a passion for it nor a hatred or a position, but I agree that the voters have spoken and we should implement this as quickly and as practically as possible. And so my concern is getting into a position where maybe it's going to get slow played more than it needs to to get the right policy in position. And that's just kind of, you know, you kind of addressed it but I just want to give you an opportunity to kind of address in that context.

TONY FULTON: Yeah, this is a-- it's a stop and go answer. Let's go, let's get her done, but we got to get it done right. Because, again, the vote. So I wanted to touch on this earlier. I'm just going to-- if I-- if I may, if you'll indulge me this, a while back as I was

considering all of this, I looked at the different votes, votes that occurred with respect to expanding gambling. And in a presidential year in 2004, I believe that's the last time, there may have been other, and so this has been in front of me since-- when I was in the Legislature we've had this a lot. So I think it was 2004. I might be wrong, but regardless, it does provide a good comparison. In 2004, it was 65-35, uh, 64-36 was more precise, but about 65-35 against casinos. Last presidential year, about 750,000 Nebraskans voted. OK. So fast forward to 2020 and it was 65-35 the other way. That's remarkable. Just from a-- you know, I've been politics, you guys are in politics too, just from a political scientific perspective, that's remarkable. So either Nebraskans all of a sudden had this, you know, radical conversion or, I think as you were touching on it, they've-- they've had an incremental acceptance. If you just look at the-- the math of this, they were probably-- and this, you know, it's hard to get this precise, but my guess it's between 50,000 and 90,000 people changed their minds. Given the population growth of Nebraska it's about seven and a half percent in the last 10 years, probably about 10 percent since 2004. We had new voters. They were actually a little better-- a little better turnout in 2020 than in 2004. But I'm guessing it's somewhere between 50,000 and 90,000 people changed their minds to flip the vote, 65-35, one way or the other. Do I believe that those people changed their minds because of some radical conversion toward gambling? I don't think so. I think they saw property taxes, property tax relief as the third-- it was LB431, LB429, LB430, LB431-- LB431 had to do with property taxes. They saw that and said, you know, I'm willing to dip my toe in the water to get some property tax relief. Again, my own opinion, I don't-- there's no way to show this, but I just don't think with 50,000 to 90,000 people changing their vote, I just think that they want us to take this slowly and get it right. That's how I interpret those elections, those two elections. And I looked at other elections, too, but those are the two that I think comprise the points here. So that being said, we want to get it done because they voted, but I don't think the folks who put this over the finish line, who flipped this vote, I don't think they want us to ready, fire, aim, if you know what I mean. So I don't think it should be-- it should not be held up because of one's position on gambling if that answers-- at least for me, that is not how I'm approaching this.

J. CAVANAUGH: I think that's a good answer. So I guess I kind of asked this earlier as well, but, so in terms of an application for a license, do you think that a license should be issued if it meets the objective criteria regardless of personal feelings or anything like that?

TONY FULTON: The way I approach this, again, my own opinion. There isn't an opinion on this because we haven't had a chance to form the commission, really-- form an opinion on this. The commission is not a rubber stamp. If it were a rubber stamp, we would not be having confirmation hearings. The Legislature empowers the commission to exercise some judgment. That being said, it's a regulatory-- regulatory endeavor in the executive branch of government. So, you know, we have our limitations also. The way I see this going forward, we should promulgate regulations that make clear the criteria that we will entertain when deciding who gets a license and who doesn't. That being said, there should be some judgment employed within the confines of those regulations. We can't be a rubber stamp. And again, I get-- and I have thought long and hard about this. That's because I don't believe that's what the people want. I think they want to exercise some judgment. So the regulatory structure should be in place. That means we'll have to go through a proposal of regulations, a public hearing. It should be open to the industry. There should be input. Now, we promulgate those rules and regs. They go before the Governor for his signature. The Attorney General has input and before the Secretary of State to finally be promulgated on behalf of the state of Nebraska. Revenue-- this is the tax commissioner revenue guy in me speaking. We do this a lot in revenue. That's what should happen. And those regulations should make clear how-- how the commission will conduct itself. But that does not, therefore, mean we shouldn't exercise any judgment. It's quite the contrary. We should exercise some judgment.

J. CAVANAUGH: Thank you.

BRANDT: Thank you, Senator Cavanaugh. Have you hit a-- have you had a chance to go to any of the meetings?

TONY FULTON: Uh-huh. I-- when the Governor appointed me, so it's all a blur whenever it was. I think it was June.

LAURIE HOLMAN: July.

TONY FULTON: July. OK. Well, as soon as I got appointed, I started going to meetings. So I've been to three now, I think, official meetings. And then now I've met with-- and it's not just the meetings. I mean, it's kind of like you all's job. You do a lot more than-- so, I've been to meetings with Gambler GA-- with GAP, Gamblers Assistance Program. I helped put that together because that actually, believe it or not, Gamblers Assistance Program is administered under the Department of Revenue. So I'm pretty familiar with, you know, what they do. They're independent, but the resources of the

department help to undergird what they're doing. So you have three meetings and a bunch more meetings,

BRANDT: Have you-- has the committee had any discussion about hard caps on the number of casinos in the state, or would that be a legislative issue? Or maybe a senator would bring a bill and said we can't have more than six casinos or 10 casinos?

TONY FULTON: Yeah, that's a good question. The commission has not had-- so I'll just say this. I've talked with commissioners about it. And individually, I just-- I think we're all feeling our way. And I'll just again, speaking for myself, there may be a commissioner that says no. Shame may tell me who-- wait a minute. It just seems to me that we're thinking our way through this like everyone else in Nebraska is. No formal discussion on this. You can see in our minutes, they're very good about the transparency with which they conduct themselves. So, no, it's-- the answer to your question is no, nothing formally. I've thought about it in terms of the vote and I've communicated this, you know, to people who have asked, that's the way I'm looking at it. My own opinion on it, again, just me. I am going to be biased to those racetracks that existed on the day of the vote. Because existing racetracks, existing racetrack, those two words appear in the language. I'm almost positive. Been a while since I've looked at language, but existing racetracks. So that's my bias. I'm just going to tell you that upfront so you-- you know, maybe disagree with that. That being said, I also have to be open because existing racetracks excludes a large part of Nebraska. You know, I'm not-- so I'm from a small town. Western Nebraska does not begin at the western edge of Omaha and Lincoln. I think that that might be the opinion of some folks, but there's a large section of Nebraska who doesn't have a racetrack right now. And so I got to be open to those, you know, Kim-- I think it's Kimball and North Platte have proposals in front of us for racetracks and casinos. So I'm telling you my bias upfront, which is informed by what I perceive in the vote that took place, but I do understand I got to be open to proposals.

BRANDT: And I think what's a little unusual about Nebraska coming so late to the game, all the other states' casinos are on our borders--

TONY FULTON: Yeah.

BRANDT: --Iowa, Kansas, South Dakota, whereas now all of our casinos will be interior to our borders. And I guess I look at-- I'm going to-- a task force that was at McConaughy, where 79 percent of the individuals that go to Lake McConaughy are from Colorado. The second group is Nebraskans are like 10 to 12. The third group of

Californians like 8 percent. And it's just-- giving me this perplexed look, it's because they haven't changed their license plates to Colorado yet. So we need to capture-- I look at wanting to capture as much out-of-state money to help all of us that live here. And I guess I just ask that you keep an open mind to doing that in some way, shape, or form. Are there any other questions from the committee?

LOWE: I just missed most of the committee meeting. Could you start over, please? [LAUGHTER]

TONY FULTON: [INAUDIBLE] me small.

BRANDT: Well, thank you, Director Fulton. At this time, are there any proponents?

LYNNE McNALLY: Last time. Thank you, transitional Chairman Brandt. That's just fun to say. Lynne McNally, Nebraska HBPA, M-c-M-a-l-l-y. I realized when I sat down, I never answered your question, Senator Cavanaugh, I apologize.

J. CAVANAUGH: Wow, which one was this?

LYNNE McNALLY: How I feel about the new licenses. I-- I have worked on this single issue for 21 years. Some people would say that's not the smartest way to spend your career, but here we are. Finally passed. As I said, I was one of the authors of the three initiatives. We very specifically wrote it so that there would be a built-in quorum on the Gaming Commission, so that if there was a slowdown in the additional two members, that it would not slow them down. I'm fairly confident that the AG's opinion is going to-- it's going to reflect that, but the-- the first Gaming Commission hearing that I went to were this plethora of new licenses. And I will tell you that somebody who's spent 20 years in this industry, I was highly offended by several of them because they were just thinly-veiled attempts to open tracks so that they can get a casino. One of them in particular was extremely objectionable to me. The woman got up and said that they were applying for a casino. Oh, yeah, and a racetrack too. And they came up with their name because they were drinking in a hot tub and this guy got out of the hot tub and a new guy got in the hot tub and they brainstormed names for-- for casinos and that's how they came up with it. And I'm sitting back there thinking, this is the industry I have spent my entire professional career in and you're making a mockery of it. And-- and she-- the architectural plans they came up with provided for the horses running through a tunnel in the casino. Well, I will tell you, as a person who's spent my life in this industry, those horses run at 35 miles an hour. That's a great

way to kill jockeys and horses, you know, and shows your ignorance and shows your lack of interest in the sport. So those kinds of applications I am going to strongly object to because they have absolutely no interest in racing. And as far as I'm concerned, this is why this passed was, you know, not only property tax relief, but-- but to restore the racing industry back to what it was when Aksarben was open. And so I am going to fight until I'm dead to prevent those types of applicants from being able to open a track for the sole purpose of having a casino and either lining their own pockets or sending the money out of state. Because I and Lance Morgan were the ones that did this campaign across the state with Drew Niehaus from their marketing department. And keep the money in Nebraska is not like lip service to us. The tracks in Lincoln and Omaha when we open these casinos, you will get first preference if you're a Nebraska business and you want to do business with us. We're planning on having Nebraska beers in our restaurants. We're planning to use Nebraska vendors with the construction, everything that we have the opportunity to do business with in the state of Nebraska that's what we're going to do. So I think that for the reason that I am testifying, Commissioner Fulton, I was there in 2004. He is right that the Venetian measure got 35 percent. I think if he checks back, there was a competing measure on that ballot. That's the measure I was involved in. It received forty nine and a half percent of the vote. It just barely failed. So it's not quite as much of a swing as you would think. But I do think it's significant that we did go from 49 percent to 65 percent in that 20-year time span. Commissioner Fulton has been in and around state government for a long time, and I have come to realize because he has gone to every single commission hearing, he is so valuable with his knowledge of state government and when you're setting up essentially a whole new division for the state, that kind of knowledge is invaluable. He's been really helpful with things like job descriptions and, you know, working with DAS and those types of things. He just-- he's been a really valuable addition and I really look forward to working with him in the future. I think he's going to be a fantastic commissioner if you guys approve his appointment.

BRANDT: OK, thank you, Ms. McNally. Are there questions from the committee? Senator Cavanaugh.

J. CAVANAUGH: Thank you, acting Chair Brandt. I just got to follow up on these other licenses. How many-- you might have said the number, how many licenses--

LYNNE McNALLY: There are six existing licenses. There were five new license applications, but they're-- but it's very likely there's going to be at least three or four more on top of that.

J. CAVANAUGH: And I think I might know what you're talking about on one of them. So there's thoroughbred tracks and quarter horse tracks. And both would qualify for a casino under the--

LYNNE McNALLY: Yeah, there are five thoroughbred tracks existing in the state. There's one quarter horse track in Hastings.

J. CAVANAUGH: And, but-- but I guess my question is you could-- my original understanding of this is maybe perhaps my ignorance, my-- when I-- before I was in the Legislature, which, of course I'm no longer ignorant. [LAUGHTER] That's hard to take issue with, but one, I didn't know there were two different types of horse tracks at that time, but when I remember the ballot issue coming up, it was going to be one casino per county was how it was kind of--

LYNNE McNALLY: Right.

J. CAVANAUGH: --sold to people. My kind of understanding now is you could potentially have a quarter horse track and a thoroughbred track in the county and maybe have two--

LYNNE McNALLY: This is just a guess on my part. I don't think there's any way that the Racing and Gaming Commission would ever approve that, because I think they're going to be looking at the overall racing market itself. And there-- there are no counties, including Douglas County, that would support two tracks in the same county. That I just-- there-- the-- the horses are not there, the personnel is not there, and the market is not there. So, you know, it's pure speculation on my part, I don't have a vote in that, but I really don't think, given the current makeup of this commission, they would ever approve that. In addition, we-- we never said that we would want a casino per county. I mean, I personally did the campaign.

J. CAVANAUGH: So I'm not saying it was-- my interpretation was it was limited to potentiality.

LYNNE McNALLY: Yeah.

J. CAVANAUGH: But, so but I'm-- you're saying that's reality. That's what's going to-- would most likely happen, but legally, you could have the potentially of two per county with a thoroughbred and quarter horse race.

LYNNE McNALLY: Potentially, yeah.

J. CAVANAUGH: I'm kind of with you on that subject, but the one-- one of the ones you're talking about, I thought there was an application for another quarter horse track.

LYNNE McNALLY: There is in North Platte, Nebraska. And just to let you know, there is no limitation if-- if we wanted to do a mixed meet, meaning quarter horses and thoroughbreds, Prairie Meadows does it. Remington Park in Oklahoma, those tracks. It's pretty common across the United States. Texas is known for it. I-- I don't think that I would receive a lot of push back at the commission if I came to them and asked to do a mixed meet. So, you know, that would be a way of addressing, you know, if, for example, there was a huge demand for quarter horse racing, we could certainly offer it at Lincoln and Omaha, the tracks that we control. And, you know, we would be very supportive of that. Anything that supports horse racing at all, we're supportive of.

J. CAVANAUGH: To do that, though, you'd have to get an amendment to your license--

LYNNE McNALLY: Yeah, we would have to-- we would have to get a quarter horse license. We have a thoroughbred license right now.

J. CAVANAUGH: Thank you.

BRANDT: Thank you, Senator Cavanaugh. Any other questions? Senator Lowe.

LOWE: Thank you, and thanks for being here today.

LYNNE McNALLY: Sure.

LOWE: I'm in the ignorant category. Is there a distance on mileage distance between thoroughbred or racetracks?

LYNNE McNALLY: There's not a-- there not a mileage distance in state statute. There's a mileage distance in the Interstate Horseracing Act.

LOWE: OK.

LYNNE McNALLY: So there's a-- there's a 50-mile radius that you can conduct simulcasting. That's federal law, but there's no state law.

LOWE: OK, so it may be tough for two county-- or one in each county.

LYNNE McNALLY: Right. Yeah. We do have a strong desire to-- to talk to the General Affairs Committee and-- and Chairman Briese about some kind of legislation coming up in January. And we're working through that right now, but, you know, we're-- we're trying as much as we can to get input. You know, the Gaming Commission is the end-all, be-all for us. You know, I mean, they're-- they're the people that we look to for guidance. They're the people that we look to to determine what the best course of direction for the state of Nebraska and racing is. So I've been talking to them a lot about what their thoughts are, what their vision is for the future, and then hopefully we can put something together and get some very clear guidelines so the entire state of Nebraska knows where we're going in the future.

LOWE: OK. Thank you.

BRANDT: OK. Thank you, Senator Lowe. Seeing no other questions, thank you--

LYNNE McNALLY: Thank you.

BRANDT: Ms. McNally. Any other proponents? Any opponents? Anyone in the neutral capacity? Director Fulton, you wanted a clarification. Come on up.

TONY FULTON: There was an Attorney General's opinion requested. It was an informal opinion and it had to do with what constituted a quorum of the six members because we wanted to use subcommittees. So we've got a lot of work to do. And any time, you know, where-- where three or more are gathered in there in that name, there is a quorum in their midst. So, you know, same type of thing you guys got to work through. And so we asked whether we could meet in committees of three and whether that constituted a quorum and the Attorney General returned an informal opinion saying that we didn't think that-- that's not a quorum. So you can meet in your subcommittees. That was the AG's opinion that was requested. I don't think it was specific to the question of whether six can conduct business, whether seven. So that's just a clarification that I believe is accurate.

BRANDT: OK, are there any questions? OK. Thank you. And with that, we will conclude the hearing for Director Fulton and we will now go into Executive Session. So thank you, everybody, for coming today.