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Transcriber's Office

General Affairs Committee  
January 30, 2017

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[LB393 LB463 LB469]

The Committee on General Affairs met at 1:30 p.m. on Monday, January 30, 2017, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB463, LB393, and LB469. Senators present: Burke Harr, Vice Chairperson; Carol Blood; Lydia Brasch; Bob Krist; Dan Quick; Merv Riepe; and Justin Wayne. Senators absent: Tyson Larson, Chairperson.

SENATOR HARR: Hello and welcome to your General Affairs Committee. My name is Senator Burke Harr. I'm Vice Chair of this committee. Senator Larson is unable to attend today so I will be running the meeting. We're going to go ahead and begin. To my far right I have Senator Carol Blood from Ralston, no, from Bellevue. They're all the same. We have Senator, let's see, to my left we have Senator Lydia Brasch from Bancroft. And I have Senator Dan Quick from Grand Island, and also Senator Bob Krist from Omaha. On the far, far left is Aaron Bos, who is the committee clerk. And to my immediate left is Josh Eickmeier, who is the legal counsel for this committee. There is a sign-in sheet located on the table at the back of the room. Please be sure to indicate how you'd like to participate in this hearing. The first box is for those who want their presence and position noted as an exhibit in the committee records but are not testifying. The second box is for those who are here for today's committee hearing but will submit written testimony in lieu of testifying, which will be noted in the committee statement. And the third box is for anyone who is testifying here today. When you do come up and testify, please be sure to give Mr. Bos, our committee clerk, your sign-in sheet before you begin. After each bill introduction, the Vice Chair will ask for testimony in support, in opposition, and neutral. When you come up to testify please speak clearly into the microphone. Please tell us your name and spell your first and last name. Also, please tell us whom you are representing, if anyone. We are using the light system for our hearing. Testifiers will have three minutes, which will be represented by a green light, all right, to begin, an amber light when you have one minute remaining, and a red light when it is time to stop. Please turn your cell phones or any other electrical device to silence or vibrate. Please keep your conversations to a minimum or take them into the hallway. The General Affairs Committee is participating in a pilot program. We are your paperless committee in a paper world. Therefore, we are only accepting handouts and written testimony electronically. Due to this new testimony, if you would like to submit something but only have paper copies then we will try to accommodate you but we do not allow visual aids or other display items. Because this committee is paperless, Senators are allowed and even encouraged to use electronic devices during the hearings. Thank you for your cooperation. And with that, we will begin with LB463. Welcome, Senator Watermeier, to your General Affairs Committee. [LB463]

SENATOR WATERMEIER: All right. Thank you, Vice Chairman Harr, members of the General Affairs Committee. I am Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r, representing District 1 in

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the southeast corner of the state and here to introduce LB463. The mayor in any city having fewer than 25,000 residents or the chairperson of the board or trustees of any village may appoint a cemetery board consisting of three to six members from among its residents of such a city or village. LB463 would allow a village to select board members from residents within the county where their village is located. Some villages are having a difficult time finding enough people to serve on the cemetery board. If the boundaries were expanded, residents living in the rural areas surrounding the village would also be eligible to serve on this board. By expanding the language in the law to allow someone living in the county as well as the village to serve on the village cemetery board will help the chairperson of village trustees meet the requirement set forth in statute. This is a simple, straightforward bill, and I urge the committee to advance it to the floor of the Legislature. My son-in-law Ryan, who resides in my legislative district, is here today as well to give an example of why this is necessary. But it is a simple bill and I know there's questions about it can't be this simple but I hope this is. But I hope it also generates some discussion on maybe how we can do it better. So with that, I'd be glad to answer any questions. I'll stick around for a little bit. [LB463]

SENATOR HARR: Thank you, Senator Watermeier. For the record, we have been joined by Senator Wayne and Senator Riepe. Senator Krist, you have a question. [LB463]

SENATOR KRIST: There are several cities that sit...villages, townships that sit, yeah, you already know this question is coming. Is somebody behind you going to talk to that or... [LB463]

SENATOR WATERMEIER: Because they sit right on the boundary? [LB463]

SENATOR KRIST: Yeah. [LB463]

SENATOR WATERMEIER: Yeah. [LB463]

SENATOR KRIST: And people from the outlying areas, farmland, may use...farmers, ranchers may use that particular cemetery and they're not represented. How do we deal with...? [LB463]

SENATOR WATERMEIER: It's a good question. I'll have to deal with that. But I was worried about a small city that lived right on the edge and most of the residents may actually be from the residing adjoining county. So it's going to be an issue but I think for now they're...a lot of them just lay there idle and don't have members serving on the board. So see if we can get the process started... [LB463]

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SENATOR KRIST: I think it's a great idea. I think that there's language in...this committee is not necessarily up to speed on TIF or on annexation, but I think there's language in both of those areas that has adjacent responsibility... [LB463]

SENATOR WATERMEIER: Uh-huh. [LB463]

SENATOR KRIST: ...or adjunct or whatever. But I just worry that maybe you're going to have that representation issue. But it's a great idea. [LB463]

SENATOR WATERMEIER: I think it's a valid point too. I'll have to address it. Thank you. [LB463]

SENATOR HARR: Thank you. I have one question. Twenty-five thousand is a larger city, in my opinion. How...do you know how you came up with the number 25,000? [LB463]

SENATOR WATERMEIER: That's, I think, in statute. But I think Mr. McIntosh... [LB463]

SENATOR HARR: That's what I was wondering because... [LB463]

SENATOR WATERMEIER: ...will be able to talk about that. But this is directed just to the villages, just to the village board part of that,... [LB463]

SENATOR HARR: Okay. [LB463]

SENATOR WATERMEIER: ...I believe anyway. I'll let Ryan speak to that. [LB463]

SENATOR HARR: Okay. Any other questions? Seeing none, thank you, Senator Watermeier. [LB463]

SENATOR WATERMEIER: Okay. [LB463]

SENATOR HARR: Appreciate it. [LB463]

RYAN McINTOSH: Mr. Chairman, members of the General Affairs Committee, my name is Ryan McIntosh, M-c-I-n-t-o-s-h. I'm testifying today in my capacity as the village attorney for the village of Palmyra, Nebraska. Palmyra is located in western Otoe County and has a

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population of roughly 545 people. They're an active community with an active village board of trustees. Like every municipality, there are numerous boards and committees that need filled to conduct business of the village. These include the library board, the parks committee, and the fire and rescue squads, just to name a few. Currently, the fire and rescue squads are filled with members of the community residing outside of the actual corporate limits of the village. Additionally, the chairman of the board of trustees is charged with appointing a cemetery board to oversee the operation of the cemetery located on the north end of town. In recent years the village has struggled to find citizens to fill many of these boards. Primary among these is the cemetery board. In 2016, one long-serving member of the Palmyra cemetery board passed away and one resigned. This left the cemetery board without the ability to meet its quorum and to properly conduct the business of the cemetery. Despite the diligent efforts of the chairman, keeping this board filled continues to be a struggle. Like many rural communities, the cemetery is used for both those residing within the corporate limits of the village as well as those residing outside the corporate limits. Under Nebraska Revised Statute 12-401, only citizens of a village may be appointed to serve on the cemetery board. The chairman has been approached by rural members of the community, generally farmers who have lived there for generations, who are willing to serve but cannot under current law. This issue is not unique to Palmyra and only has gotten worse with time. Accordingly, we approached Senator Watermeier with this issue. LB463 is a simple solution that allows the villages across the state more flexibility in filling their cemetery boards. These boards serve an important role. The cemetery boards are responsible for the maintenance of the cemetery, for the sale of plots, and perhaps most importantly acting as historians now for the village and historians of those, maintaining the rolls of those, buried within the cemetery. Appointments to such boards will still be done by the chairperson of the board of trustees and, thus, there should be no concern over the loss of any safeguards. On behalf of the village of Palmyra, I respectfully request the committee to pass LB463 to General File. Senator Krist, you had mentioned a... [LB463]

SENATOR KRIST: Multiple counties. [LB463]

RYAN McINTOSH: ...multiple counties. That's exactly the situation that is in Palmyra where it's the Palmyra-Bennet School District with Palmyra in Otoe County, Bennet in Lancaster County. We're members of the same communities essentially. In approaching this, looking at the language to use, no, we did not look at the TIF statutes specifically but, you know, they're not currently represented. And this was the simplest way to allow such a broader look into the community to find people who are willing to serve, people who have that history within the community. [LB463]

SENATOR HARR: Thank you, Mr. McIntosh. Any questions? Senator Krist. [LB463]

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SENATOR KRIST: Just let me suggest that you go to the Urban Affairs Committee, if you'd like to stay involved with this piece of legislation, to Senator Wayne's committee. His legal counsel has a lot of knowledge on annexation, I think would be more appropriate. Where that language calls for adjacent annexation as you go out, I think that could be incorporated, that legal definition could be incorporated and you could make it a multicounty, whatever touches, whatever is adjacent. [LB463]

RYAN McINTOSH: I do think that would be helpful in this situation, in this particular instance. We do have people that move back and forth between communities quite regularly. [LB463]

SENATOR KRIST: Okay. Thank you. [LB463]

SENATOR HARR: Thank you. Senator Brasch. [LB463]

SENATOR BRASCH: Thank you, Vice Chair Harr. And thank you for your testimony today. I'm curious, does this situation also apply to library boards? [LB463]

RYAN McINTOSH: The library boards have an entire chapter within statute that govern the operation of the library board. I'm no expert but I believe that within the library boards there's designations of whether it's a municipal library board or whether it serves the entire county. So those are either municipal-based or county-based. [LB463]

SENATOR BRASCH: Okay. I was just curious if it was something that would lend to this type, since we're talking about the villages,... [LB463]

RYAN McINTOSH: Uh-huh. [LB463]

SENATOR BRASCH: ...what those villages do in their library boards. Of course the cemetery board seems to have the greater need. [LB463]

RYAN McINTOSH: Yes. And within this particular community and other communities that we represent, the library board is something more tangible. You know, people with children want to be involved... [LB463]

SENATOR BRASCH: Uh-huh. [LB463]

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RYAN McINTOSH: ...in the community. So the library board has not been an issue in filling in, you know, this anecdotal instance. But the cemetery board has been the biggest struggle. [LB463]

SENATOR BRASCH: Very good. Thank you. No other questions. [LB463]

SENATOR HARR: Excellent. Seeing no other questions, thank you for your testimony today, Mr. McIntosh. [LB463]

RYAN McINTOSH: Thank you. [LB463]

SENATOR HARR: (Exhibit 1) Any other testifiers here today? Anyone in a positive? Negative? Neutral? Seeing none, Senator Watermeier waives closing and, with that, that ends the testimony on LB463. Well, I apologize, no, it does not. I have a letter here from the League of Municipalities, a letter of support signed by Ms. Christy Abraham, and that will be entered into the record. That ends the testimony on LB463. And with that, we move on to LB393. In the absence of Senator Larson, I believe legal counsel, Mr. Eickmeier, will be taking the stand. "Senator" Eickmeier, welcome to your committee. [LB463 LB393]

JOSHUA EICKMEIER: Thank you. My name is Joshua Eickmeier, J-o-s-h-u-a E-i-c-k-m-e-i-e-r. I'm legal counsel for the General Affairs Committee and testifying today on behalf of Senator Tyson Larson, the Chair of the committee. LB393 is a bill that would place kickboxing under the jurisdiction of the State Athletic Commission. In 1957, the Nebraska Athletic Commission was created to regulate boxing. In 2007, the Legislature added mixed martial arts, also referred to as MMA, to the Athletic Commission's jurisdiction. LB393 would include kickboxing as one of the contact sports that the Nebraska Athletic Commission would regulate. The office of the State Athletic Commissioner is under the supervision of the Charitable Gaming Division of the Department of Revenue, which I assume is why it's before this committee today. So it's pretty straightforward. I think some of you were here perhaps in 2007 when mixed martial arts came up, perhaps not. I was. (Laugh) But it's, kickboxing, is another I guess discipline, if you will, that is fairly common. The Nevada Athletic Commission also has these three--boxing, MMA, and kickboxing--as the three participation licenses that are available. So that's pretty much it. [LB393]

SENATOR HARR: Thank you. Any questions? Senator Blood. [LB393]

SENATOR BLOOD: Thank you, Senator Harr. We talked a little bit about this before the hearing. I'm puzzled by Section 10. I don't understand why they need the inclusion of Muay Thai

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in that paragraph when it clearly talks about unarmed combat sport. Why refer to only one type combat/fighting sport in that paragraph when it already clearly states fist, hands, feet, legs?  
[LB393]

JOSHUA EICKMEIER: Yes, a good question. [LB393]

SENATOR BLOOD: It just seems odd. [LB393]

SENATOR EICKMEIER: Yes. It's not uncommon when you're using a generic term, perhaps "kickboxing" in this instance, where, yes, it is described in Section 10, but it's not uncommon to have and give an example, which is why you'll use the language "but not limited to." And that way people who may not be sure what will be an example of kickboxing, but then that example is there to sort of guide the interpretation of the statute. I can check. My guess is that there's probably a particular interest in Muay Thai as a discipline and that's sometimes also why particular examples are given, because a constituent or someone is interested and wants to make sure that that is clearly included under kickboxing. But I don't know that for a fact. [LB393]

SENATOR BLOOD: So what's to prevent somebody else from coming in and saying, well, you know, I think jujitsu should be in that sentence,... [LB393]

JOSHUA EICKMEIER: Uh-huh. [LB393]

SENATOR BLOOD: ...and I think tae kwon do and judo and...? [LB393]

JOSHUA EICKMEIER: Sure. [LB393]

SENATOR BLOOD: I guess I worry when we write statute sometimes... [LB393]

JOSHUA EICKMEIER: Uh-huh. [LB393]

SENATOR BLOOD: ...that we throw in words that don't necessarily need to be in there to change what it means. [LB393]

JOSHUA EICKMEIER: Yes. In this instance it's not uncommon to give an example. It's hard to have an exhaustive list because you inevitably leave something out. [LB393]

SENATOR BLOOD: Right. [LB393]

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JOSHUA EICKMEIER: And then the question is, well, did you leave it out on purpose or was it just an oversight? So having one example is not uncommon in this instance, but oftentimes...in this case you're dealing with the Nebraska Athletic Commission. They would have the authority. They would have the authority to write rules and regs to clarify, because they would be the ones, the commission would be the entity, that would ultimately regulate and license competitors and those involved with that particular sport. I think one of the reasons this came up is because, for the same reason MMA was added, is that there are often promoters that try and put on these types of combat sports and they run into legal issues because you're essentially consenting to violence. And I know there was a court case even in Nebraska that mentioned MMA. That was Mason v. Lincoln that talked about that. And so that's one of the reasons, I guess, just to include that so it is there. If there was a desire to have such a contest, the commission would have the authority to regulate it. [LB393]

SENATOR BLOOD: Thank you. [LB393]

JOSHUA EICKMEIER: Yes. [LB393]

SENATOR HARR: Any other questions? Senator Riepe. [LB393]

SENATOR RIEPE: Thank you, Senator Harr. A question I have, we've had a lot of discussion about concussions in football and other sports, if you will. We've also, as you know, talked about motorcycles and helmets and head protection. Is there any stipulation about head protections in this kickboxing sport? And/or the second part of that question would be is I know with the helmet law they were at least proposing some insurance that covered up to like a million dollars. My concern (inaudible) is the contingent liability that the state might have with serious head injuries. [LB393]

JOSHUA EICKMEIER: Yes. The answer is I don't know. [LB393]

SENATOR RIEPE: Okay. [LB393]

JOSHUA EICKMEIER: When it comes to, I know, amateur sports, like boxing, they often do have headgear, but when it comes to professional they typically don't. And so I don't know if that would follow the same logic for kickboxing. But this would fall under the same regulatory umbrella that currently professional amateur boxing would fall under in Nebraska. So it would be regulated in a similar way, as was MMA, for that matter. [LB393]

SENATOR RIEPE: Okay. Thank you. [LB393]

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JOSHUA EICKMEIER: Yes. [LB393]

SENATOR HARR: Any other questions? I have, and I apologize, and maybe I'll ask Senator Larson, but what is the need for this bill? [LB393]

JOSHUA EICKMEIER: I believe...I believe that it was a constituent or some...it was an individual. I guess I don't know for a fact they were a constituent. An individual brought it to our office and I believe that there was...I don't know if there were specific...if there was a specific event in mind, but I believe that there was a desire to be able to have these types of events. And currently you run into legal issues if you try and do those without it falling under the commission's authority. [LB393]

SENATOR HARR: Excellent. Well, hopefully we'll have someone come after you who can better identify. Senator Riepe. [LB393]

SENATOR RIEPE: Thank you, Senator. Is this a prelude to cockfighting in Nebraska? [LB393]

JOSHUA EICKMEIER: I hope not. [LB393]

SENATOR RIEPE: Okay. [LB393]

JOSHUA EICKMEIER: I don't think so. [LB393]

SENATOR HARR: I thought that's what we were. (Laugh) [LB393]

JOSHUA EICKMEIER: Any other questions? [LB393]

SENATOR HARR: All right. Any other questions? Seeing none, thank you, Mayor. [LB393]

JOSHUA EICKMEIER: Thank you. [LB393]

SENATOR HARR: Any proponents on LB393? Any opponents on LB393? Anyone here in the neutral capacity? Seeing none, Mayor, would you like to close? [LB393]

JOSHUA EICKMEIER: No. I waive closing. [LB393]

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SENATOR HARR: Mayor waives closing. With that, we'll move on to LB469. And in the stead of Senator Larson, who is ill today, we have the honorable Josh Eickmeier, who also serves as legal counsel for this committee. [LB393 LB469]

JOSHUA EICKMEIER: (Exhibit 1) All right. Thank you. Good afternoon. My name is Joshua Eickmeier, J-o-s-h-u-a E-i-c-k-m-e-i-e-r. I'm legal counsel for the General Affairs Committee, testifying today on behalf of Chairman Tyson Larson. So LB469...LB...I'm sorry. I have the wrong...what I have here. Yeah. So LB469, this is the Fantasy Contests Act, similar to LB862 from last year, so I have the same bill number written down. It's a similar bill. It deals with fantasy contests that...for those of you who may be familiar, DraftKings and FanDuel are two of the larger companies that put these on. The last couple years there was quite a bit of advertising so that you probably saw some of those commercials. But basically what this does is this codifies the Fantasy Contest Act in state law that would then license these types of operators as well as regulate these contests. So the bill basically deals with a registration for these entities and then...which I do have some discussion of amendments that I'll just mention briefly that we'll probably discuss in Exec Session at some later time. But, for example, this bill has a licensing fee and then there is a annual fee as well. Originally in the bill it's \$10,000. Part of the concern was that...and I guess the DraftKings and FanDuel have stated that they have run into some issues in other states where that licensing fee, especially the initial registration fee, was so high that it forced out some of the smaller operators and that wasn't really the intent. And so I actually have a proposal to take that down to \$1,000, unless they've been in operation for 12 previous months. Then it would be 6 percent of their revenue, gross revenue, but not to exceed \$10,000. And that language, and I've talked with both large and small operators about the need for that. The concern is that if you're a small operator, you simply won't be able to get into the market if it's that cost prohibitive. So they're trying to strike the balance between, you know, what a large entity, what it might be reasonably expected to pay for a registration fee and renewal but also have it adjustable so a smaller company, that is not going to see anything near those...that gross revenue, would also be able to participate. The basis for this, if you go through the bill summary, talks about the UIGEA. This is a federal law that was...that in 2006 was passed and this had to do with basically a modernization of the Wire Act of 1961. And what they did was it just took...carved out basically an exception for these types of contests. When it comes to states, there is the question when it comes to the constitutionality of this type of activity. And then if you go to the end of the bill summary you'll note I have a paragraph that talks about the Constitution of Nebraska. Article III, Section 24 prohibits the Legislature from authorizing games of chance other than those allowed in Section 24, so just horse racing and lotteries. Courts have held that games of chance are those games with more chance than skill. Therefore, a game with more skill than chance would not be prohibited under the Nebraska Constitution. And that's what the fantasy sports operators maintain is that their contests are games of skill and, therefore, are legal in Nebraska. And many other states have the same constitutional language. There has not been any definitive court case that has...that would give guidance on whether that is or is not

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true, but that has historically been the issue. In the past we dealt with a machine called Bank Shot and that was something that was also popping up in bars and it's like little pool balls that move along on a screen and you have to physically touch the screen in a particular order. And that became...initially those were seized and then eventually, through the court case, the court held that if some tweaks were done to the software that it would be acceptable as a game of skill. Again, it's not a perfect threshold. It's kind of the eye of the beholder. But the argument here is that this is a game of skill and, therefore, it does not fall under the constitutional prohibition that quite a few states have. But basically this bill is intended to do two things: license the operators and provide consumer protections for the players. And I could go into more detail but I'd be happy to answer questions that you may have. [LB469]

SENATOR HARR: Thank you, Mr. Eickmeier. Any questions? Senator Riepe. [LB469]

SENATOR RIEPE: Senator Harr, thank you. You've noted, Mayor, that (inaudible) last year this came in under LB862? [LB469]

JOSHUA EICKMEIER: Yes. [LB469]

SENATOR RIEPE: Have there been any changes or is this fundamentally the same bill, just returned? [LB469]

JOSHUA EICKMEIER: Well, I think it's fundamentally the same. I think what...since then I believe you should have...I think you were e-mailed a handout that's a graphic that shows the states where they've passed similar legislation. Every state is a little bit different depending on the circumstances. I think that's the one right there in front of Senator Harr. That...I believe this was modeled after that. Some of the changes that we...in last year's bill there were also amendments that followed it and I think that those amendments, for example, the prohibition against third-party scripts, is already included in this bill, so tried to make it a little bit of a tighter bill initially than it would have been last year. And third-party scripts is just prohibiting people from using software to give them an unfair competitive advantage. And there are people here from both DraftKings, a representative, as well as FanDuel that can give you the, I guess, inside baseball explanation of how their industries work. [LB469]

SENATOR HARR: Any questions? I have just a couple. And I apologize for asking staff, but this is important legislation and I do consider you an expert in this area. Number one, why are the penalties civil instead of criminal in nature for violation of this act? [LB469]

JOSHUA EICKMEIER: That I can't tell you. [LB469]

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SENATOR HARR: Okay. And I'll ask Senator Larson. Also, you mentioned Bank Shot and we got to deal with that legislation a little bit also over in Revenue. And in that there was an arbitrary third party that determines whether games are games of chance or games of skill. Do you know, is there something similar to that for fantasy sports? [LB469]

JOSHUA EICKMEIER: I don't believe...I don't...are you referring to like an independent firm that analyzes the machine and software? [LB469]

SENATOR HARR: Yes. And it was a company out of New Jersey, I believe. [LB469]

JOSHUA EICKMEIER: Yeah. Yeah, when we're dealing with machines, oftentimes, because they're going to be based on software, you can hire a company that looks at software and determines, you know, makes a determination and then the courts will often use that as a guide. I don't know that there is such a thing for this because this is done by real people, players that are choosing their team based on their knowledge of particular real players on real teams and their performances. And they use that knowledge then to form their own team and that's what you're competing against, other players who have done the same. I don't know of a firm that could really analyze that other than a court... [LB469]

SENATOR HARR: Okay. [LB469]

JOSHUA EICKMEIER: ...to make that determination. [LB469]

SENATOR HARR: And my final question is I've seen the ads on TV where people win \$100,000, \$1 million, and it's wonderful. Is there anything in this bill--and I apologize, I have only looked at it on my phone--that requires those companies to notify our Department of Revenue so that we can collect the proper taxes for these winnings? [LB469]

JOSHUA EICKMEIER: I know there's an audit requirement. I don't know there's a preemptive requirement as far as notification for particular winners. That's something that I think you can ask the representatives of DraftKings and FanDuel if that's something they've encountered... [LB469]

SENATOR HARR: Okay. [LB469]

JOSHUA EICKMEIER: ...in other states. And then perhaps that's something that could be considered. [LB469]

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SENATOR HARR: I just want to make sure we get what's coming to us. [LB469]

JOSHUA EICKMEIER: Absolutely. [LB469]

SENATOR HARR: All right. Thank you. Any other questions based on my questions? [LB469]

JOSHUA EICKMEIER: If I could, may I add one more thing? [LB469]

SENATOR HARR: Of course. [LB469]

JOSHUA EICKMEIER: I discussed the...we've looked at some possible amendment language. I just wanted to clarify them. And one has to do with...basically it has to do with the small operator, making sure they're not pushed out because the requirements are so steep as far as what is financial commitment or asset commitment. And so this has to do with...when it deals with determining the location in the definitions, it means a geographical position of a person as determined within a degree of accuracy, consistent with generally accepted technical standards. There is, I believe, expensive software that can do this, but there's also other acceptable means of determining a person's location. So this language was just intended to broaden that. And again, the people in the industry can explain why that's important as well. There's also, I mentioned before the registration fee of 6 percent of the fantasy contest operator's gross fantasy contest revenue for the preceding 12 months, or \$1,000, whichever is greater, not to exceed \$10,000. And the reason for that is that if they're starting up a brand new operator they wouldn't have 12 months of previous revenue to go back and take a 6 percent out of. So that's just the practical solution. And then there's a couple others that deal with... [LB469]

SENATOR HARR: And are those changes in Section 1 of the bill? [LB469]

JOSHUA EICKMEIER: This change is in...on page 3. [LB469]

SENATOR HARR: Okay, of Section...okay. [LB469]

JOSHUA EICKMEIER: Line 1, that's on line 1. The new subdivision will be (8), so that creates a new (8). [LB469]

SENATOR HARR: Okay. [LB469]

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JOSHUA EICKMEIER: And then the other portion of this has to do with the rules and regs, that it would...it would strike "but not limited to," and that was just to be able to clarify that the department, obviously, can do rules and regs but it was a little bit murky as to what does it mean to go beyond rules and regs. And so just to clarify that rules and regs means rules and regs, that's on page 4, line 31. Then on...and then there's an escrow account... [LB469]

SENATOR HARR: Okay. [LB469]

JOSHUA EICKMEIER: ...on page 6 that would be an alternative for where...they could even segregate the funds. You want to make sure they have enough funds to pay off the winners and that's why, and that's what the account will give them. It will be an alternative way of segregating those funds. That just from a more practical standpoint. So those are basically some of the change we talked about. The last thing actually came from Yahoo! when we spoke to them earlier today and it has to do with...so in Section 2(5) of the bill it would now read: Fantasy contest operator means a person, entity, or the operating division or group of an entity, that offers a digital platform for the playing of a fantasy contest, administers one or more fantasy contests, and awards any prize of value. And then the second, Section 5(1)(b) has additional language that would just...it basically wants to make sure that for someone like Yahoo!, they're a very large corporation, this is a very small part of that corporation, so if you're going to be bringing in directors or others who are involved in an issue, that you only bring in the ones that are in the part of the division that actually does the fantasy sports. You're not bringing every division or director or group that could be affiliated. And that's just to clarify the intent. So those are the only changes and I, like I said, I got this, this morning so I haven't really had a chance to consolidate this into one clean amendment, so I apologize for that. But before this would ever be discussed in Executive Session, I would have that prepared so that you all have an opportunity to review that and ask more questions. [LB469]

SENATOR HARR: Great. And that's what I was going to ask. Thank you. Any other questions based on Mayor Eickmeier's comments? Seeing none, thank you. Oh, sorry. Senator Krist. [LB469]

SENATOR KRIST: Very quickly. [LB469]

JOSHUA EICKMEIER: Yeah. [LB469]

SENATOR KRIST: Are those provisions that you just read to limit liability for the larger corporation into a division of the corporation? [LB469]

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JOSHUA EICKMEIER: I don't believe it's intended to limit liability, like financial liability. I think it had to do with defining who the operator is. But I believe someone from Yahoo! is here who can answer that. [LB469]

SENATOR KRIST: Okay. [LB469]

JOSHUA EICKMEIER: But I don't believe that's the intent. I think it has to do with just limiting...I don't think it's the financial liability. It's just more of who physically would you involve in that kind of a...I won't call it an investigation but in that kind of a review. [LB469]

SENATOR KRIST: Civil action? [LB469]

JOSHUA EICKMEIER: Yeah. But they would be able to answer that better for you. [LB469]

SENATOR KRIST: Thank you. [LB469]

JOSHUA EICKMEIER: Yeah. [LB469]

SENATOR HARR: Any other questions? Senator Brasch. [LB469]

SENATOR BRASCH: Thank you, Vice Chair Harr. Thank you for your introduction. I'm curious, since there's already what appears to be an established dollar amount of anticipated revenue, correct, that they're looking at the revenue of \$40,000 certain...are there certain entities...are there certain groups that already show revenues? How are these projections made on what the outcome on who's small, who's large,... [LB469]

JOSHUA EICKMEIER: Well, the... [LB469]

SENATOR BRASCH: ...the geographics? [LB469]

JOSHUA EICKMEIER: Sure. The... [LB469]

SENATOR BRASCH: What's the template or the format? How are you making these predictions? [LB469]

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JOSHUA EICKMEIER: As far as the initial registration fee? Are you talking about the annual fee? [LB469]

SENATOR BRASCH: Yes. [LB469]

JOSHUA EICKMEIER: Well, in this bill it just says \$10,000. [LB469]

SENATOR BRASCH: Okay. [LB469]

JOSHUA EICKMEIER: And I so assume that's what they're basing that off of. But after we were discussing this, once it was introduced, the question came up about what happens with a smaller operator. Should they...you know, \$10,000 may prevent them from even coming into Nebraska or operating in the state because it would just be cost prohibitive. And so that's why this kind of a...the percentage was going to be used of either if they've been operating for 12 months and you would have that 6 percent, up to \$10,000, but otherwise it would just be \$1,000. Now a larger entity is going to obviously pay more than \$1,000 because their 6 percent is going to probably take it to \$10,000. But if you're just starting out and, you know, you're a smaller entity, you're probably...you know, \$1,000 may be all for that first year. But then after that it also goes again to that 6 percent. [LB469]

SENATOR BRASCH: I'm not understanding where that \$40,000 comes from. [LB469]

JOSHUA EICKMEIER: You talking about the fiscal note? [LB469]

SENATOR BRASCH: Yes. [LB469]

JOSHUA EICKMEIER: Yeah. I would assume they're... [LB469]

SENATOR BRASCH: Is it just a... [LB469]

JOSHUA EICKMEIER: ...I assume they're factoring... [LB469]

SENATOR BRASCH: ...a guess? [LB469]

JOSHUA EICKMEIER: There's so many...I assume, I assume they looked at how many entities there are in the state of Nebraska, are operating across...operating in Nebraska as well as around

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the country. They probably just made a guess on that. I did not give them that number so I don't know (inaudible). [LB469]

SENATOR BRASCH: Okay. I'm just curious... [LB469]

JOSHUA EICKMEIER: Yeah. [LB469]

SENATOR BRASCH: ...how they came up with that number but (inaudible). [LB469]

JOSHUA EICKMEIER: I would guess they'd probably estimate there's going to be four maybe in the \$10,000 apiece; they got to \$40,000. But I'd have to check with Fiscal to explain that further. [LB469]

SENATOR BRASCH: That's my only question. [LB469]

JOSHUA EICKMEIER: Yeah. [LB469]

SENATOR BRASCH: Thank you. [LB469]

JOSHUA EICKMEIER: Sure. [LB469]

SENATOR HARR: Thank you, Senator Brasch. Senator Quick. [LB469]

SENATOR QUICK: Yeah, I know I have friends and relatives that actually do fantasy sports, but would that make them just having their own, when they just played among themselves, would that make it illegal for them to play or they have to fall under some type of (inaudible) regulation or...? [LB469]

JOSHUA EICKMEIER: No. Typically, no, it would just be for like what I would call them, the commercial firms. [LB469]

SENATOR QUICK: Okay. [LB469]

JOSHUA EICKMEIER: That was something that we talked about last year as well because the issue of not wanting to lump in like a small group. Now I can tell you like a lot of what I would call small groups actually meet on these services. So like you might have you and your ten

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friends get together and go through Yahoo!, and Yahoo! basically manages all of your accounts. And then you would go through them or DraftKings or whomever. And so you would still go through that because they calculate. I don't know if you remember rotisserie baseball a long, long time ago. [LB469]

SENATOR QUICK: Yeah. [LB469]

JOSHUA EICKMEIER: No one wanted to be the commissioner because he had to do all the math and figure out all the statistics and... [LB469]

SENATOR QUICK: Yeah. [LB469]

JOSHUA EICKMEIER: ...that was a full-time job. [LB469]

SENATOR QUICK: So like buying the software, I mean... [LB469]

JOSHUA EICKMEIER: Yeah. [LB469]

SENATOR QUICK: ...I know like one of the leagues I belonged to or...that's been a long time ago, but they would buy software and use that to keep track of some of the numbers and stuff for them. [LB469]

JOSHUA EICKMEIER: And I could discuss with this further...discuss this further with the parties to make sure that we aren't accidentally bringing in those groups that we aren't trying to incorporate into this. [LB469]

SENATOR QUICK: Okay. [LB469]

JOSHUA EICKMEIER: But, yeah, we can sure take a look at that. [LB469]

SENATOR HARR: Any other questions for legal counsel? Seeing none, thank you, sir. How many testifiers do we have today for this bill? One, two, three, four, five, six, seven, eight, nine, looks like we have about ten or eleven. All right. We will start with proponents of LB469. Come on up. [LB469]

DEREK HEIN: (Exhibit 2) Mr. Vice Chair, members of the committee, my name is Derek Hein, D-e-r-e-k H-e-i-n, and I am the manager of government affairs for DraftKings. If you don't mind,

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I'd like to start off before I get into my testimony answering your question with regard to anyone who wins more than \$600 on our site will receive a 1099; would then be required to pay taxes on that. [LB469]

SENATOR HARR: Excellent. Thank you. I appreciate that. [LB469]

DEREK HEIN: And I believe that's the rule across the board. DraftKings was founded in 2012. We are headquartered in Boston, Massachusetts, and employ more than 300 people. Our investors include several major public companies, investment firms, and sports leagues, including Major League Baseball and the NHL. DraftKings also has partnerships with numerous professional sports teams across the nation. We appreciate this committee's consideration of this issue and for allowing us to engage in this conversation about what we believe is a common-sense approach to regulating fantasy contests in the state of Nebraska. The same approach has been taken in ten other states, with nine of those states taking a similar approach to the regulatory framework proposed here. The provisions in this bill have already been implemented on the DraftKings' platform, as well as on the platforms of multiple other fantasy operators who believe in providing the best safeguards for their customers. We believe the citizens of Nebraska deserve to participate in contests on sites that value integrity and transparency, and this bill would create a framework which would prohibit unscrupulous operators from offering contests to Nebraskans. Last year some of you heard that this bill is an expansion of gambling. You will likely hear that argument made again today. Since last year's hearing, eight other states have disagreed with this argument and have determined fantasy sports contests to be games of skill, exempting them from their state gaming codes. This bill is not an expansion of gambling. In fact, we believe it is quite the opposite. Fantasy sports contests have been played in this state for over 40 years and the newer form of daily fantasy sports, which is just a new twist on fantasy sports, have been played in the state for more than 8 years. This bill does not expand those offerings. It merely provides a specific set of rules which operators must follow to continue operating in Nebraska. Although there's currently no state law prohibition on minors participating in our contests, DraftKings does an age verification check on all depositors to ensure minors are not playing on our games. This bill would also prohibit employees of fantasy operators from participating in our contests and contests on other sites. We believe provisions such as these need to be codified in law. Senator Larson's bill is a much needed change to Nebraska law which will provide the state's fantasy sports fans with a sense of protection and fairness when participating in our contests. We urge you to support LB469. And I would be happy to answer any questions. [LB469]

SENATOR HARR: Thank you, Mr. Hein, for coming. Any questions? I believe in the matter of...oh, Senator Riepe. [LB469]

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SENATOR RIEPE: Thank you. Would it be fair if we took the language just struck out the word "fantasy" and just put "sports gambling"? [LB469]

DEREK HEIN: Senator, I'm not sure I necessarily understand your question. We don't offer sports betting or sports gambling on our platform. [LB469]

SENATOR RIEPE: Okay. Okay. [LB469]

DEREK HEIN: This is...this is, again, this aligns Nebraska state law with federal law which was passed in 2006 dealing specifically with fantasy sports. And in fact, this bill would do nothing where you could shoehorn any sort of sports betting into it. It would specifically carve out a very narrow definition of fantasy sports. [LB469]

SENATOR RIEPE: I just know there's...nationally there's a hunger for getting into sports betting, whether it's college or professional. [LB469]

DEREK HEIN: Senator,... [LB469]

SENATOR RIEPE: It's starting out of Las Vegas, I guess. [LB469]

DEREK HEIN: ...I've seen similar things out there and I just want to assure the committee that this does not deal with that. That's a completely separate issue. [LB469]

SENATOR RIEPE: Okay. Thank you. [LB469]

SENATOR HARR: If I could just in a matter of full disclosure, you stated that MLB, which is Major League Baseball, is an owner of DraftKings. MLB is an organization that is made up of Major League Baseball teams of which the Cubs are a member. Is that correct? [LB469]

DEREK HEIN: Correct. [LB469]

SENATOR HARR: And our current Governor is an owner of the Chicago Cubs. [LB469]

DEREK HEIN: I believe the family is, yes. [LB469]

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SENATOR HARR: Okay. So, in essence, the Ricketts family, whether Governor Ricketts is himself or not, he is a part-owner of DraftKings. [LB469]

DEREK HEIN: It's an interesting question. I don't want to speak on behalf of the Governor, but I'm sure that you all can ask him where he is on that. [LB469]

SENATOR HARR: Okay. I just...well, just for full disclosure, I'm not... [LB469]

DEREK HEIN: I don't want to put words in the Governor's mouth. [LB469]

SENATOR HARR: Yeah, and I'm not trying to impugn anything. It's just for full disclosure on this bill. And I appreciate it. [LB469]

DEREK HEIN: (Exhibit 3) And, Mr. Vice Chairman, I'd also indicate I believe it was distributed to the committee. There's a letter from the Omaha Storm Chasers in favor of this bill. [LB469]

SENATOR HARR: Yeah. We have it, yeah, thank you. And we have a number of letters which I'll read into the record when we are...I appreciate that, though, for reminding me. Any other questions? Seeing none, thank you, Mr. Hein, for coming here today. [LB469]

DEREK HEIN: Thank you. [LB469]

SENATOR HARR: Anyone else proponents of LB469? [LB469]

SEAN OSTROW: (Exhibit 4) My name is Sean Ostrow. It's S-e-a-n O-s-t-r-o-w. Mr. Vice Chair and members of the committee, thank you for the opportunity to testify today. My name is Sean Ostrow and I'm manager of government affairs for FanDuel, which launched in 2009 and has been offering fantasy sports contests in Nebraska and across the country since that time. Fantasy sports has grown in popularity by leaps and bounds, and as the industry matures, we understand the need to have common-sense regulation and state government oversight. Since a fantasy sports bill passed out of this committee last February, we have seen a tremendous number of states take interest in regulating and clarifying the legality of fantasy sports under their laws. In just the last year, eight states have enacted fantasy sports authorization bills. In addition, fantasy sports games have become increasingly social in nature, allowing friends and family to connect in private leagues and enjoy the sports they love. FanDuel currently takes internal steps to ensure that consumers are protected, games are fair and transparent, and minors are always excluded from play. We also believe that a level playing field is important, which is why we identify all experienced players with a prominent badge and offer tournaments that are available only to

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beginner or casual players. In addition, we provide resources and offer self-exclusion options for customers who feel they have a problem with compulsive behaviors. LB469 would codify these requirements, as well as impose a licensing structure with an annual fee upon operators under the direction of the Nebraska Department of Revenue. To be clear, this is not an expansion of gambling. Fantasy sports are a game of skill that require players to exercise the same knowledge and judgment as the manager of a pro team. Secondly, this bill creates a very narrow definition of fantasy sports, ensuring that sports betting and other activities which do not meet this criteria remain unlawful under Nebraska law. This bill puts guardrails and consumer protections around an activity that an estimated 300,000 Nebraskans currently partake in and will continue to partake in regardless of whether this bill passes. We believe LB469 provides the appropriate balance of regulation and oversight to protect Nebraska consumers and create an environment that welcomes new small businesses in this growing market. Thank you for the opportunity. I'll stand for questions at the appropriate time. [LB469]

SENATOR HARR: Thank you, Mr. Ostrow. Any questions? Senator Krist. [LB469]

SENATOR KRIST: We heard the other testifier talk about the 1099s. Is that your practice as well? [LB469]

SEAN OSTROW: Yes, Senator. [LB469]

SENATOR KRIST: So anything over a \$600 threshold? [LB469]

SEAN OSTROW: Correct. Any person who wins over \$600 in that fiscal year will be issued a 1099. [LB469]

SENATOR KRIST: And just for the legislative record, that means that you're returning the 1099s and reporting them to the state of Nebraska. [LB469]

SEAN OSTROW: I know we issue them to the player. I believe it's up to them. You know, if they're following federal guidelines they would be submitting those themselves. [LB469]

SENATOR KRIST: So we'll have to check with Revenue, but as a small businessman, if I use an independent contractor, I would issue a 1099 to the individual and I report it through my reporting cycle to the Department of Revenue. So I'd like legal counsel maybe to look at the...closing the loop or, as we say, establishing the nexus between the people who are making money, winning money, and your providing the 1099. Now nobody in Nebraska would obviously

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circumvent the process. They would all self-disclose and pay the taxes on it. But establishing the nexus helps us and the Department of Revenue in terms of where we are, so. [LB469]

SENATOR HARR: Just like Internet sales, yes. [LB469]

SENATOR KRIST: Just like it, only different. [LB469]

SENATOR HARR: Thank you, Senator Krist. Any other questions for Mr. Ostrow? Thank you for making the trip to Nebraska. We appreciate your testimony. [LB469]

SEAN OSTROW: My pleasure. [LB469]

SENATOR HARR: Anyone else here in support of LB469? [LB469]

STEVE BRUBAKER: Good afternoon, Mr. Chairman, members of the committee. My name is Steve Brubaker. I represent...I'm sorry, S-t-e-v-e B-r-u-b-a-k-e-r. I represent the Small Businesses of Fantasy Sports Trade Association, and these are the folks that we have been hearing about from legal counsel. Some of the changes to the bill as introduced were at our request and we're very happy that Senator Larson saw the need to help the small businesses and that Legal Counsel Eickmeier was very helpful in getting the language in the piece of legislation or drafting the amendment that we think is going to be in there. I'm going to talk a little bit about small businesses and why the costs are so important. You said, Senator, you're a small businessman. You know as well as anybody that small businesses are the backbone of this country and cost is always primary in whether they're going to make it or not make it. So when we see a \$10,000 fee on a small operator that may not make \$10,000 in gross in this state, then that's a problem for us. So we like to see a percentage-based fee in every state that we operate in. Certainly we're thrilled to be in support of this legislation. The fee, the percentage-based fee is very important to small businesses. The escrow account language that Legal Counsel Eickmeier talked about is important because most of our guys use an escrow account to store player funds, to keep them safe. It's set aside. Now most of our guys do season long. You're familiar with season long, the difference between season long and daily? So you pay your fee at the beginning of the sports season, usually NFL, and it sits in an account somewhere until the payout occurs at the end of the season. So if you have a company that is unscrupulous and you're not protecting that money, if it's not outside in some kind of vehicle that can't be touched, it can get stolen and misused, and that's very bad for the players, obviously, and bad for the industry in general. So we have to take care of the money. We have to make sure that we have a reasonable fee. And the question about 1099s, everybody sends out 1099s. I don't know for sure if they send them to the Revenue Departments. But I will find out. I'll share that with Josh once we find that out from our guys. That's all I got. [LB469]

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SENATOR HARR: Excellent. Thank you, Mr. Brubaker. Any questions? Just quickly, first of all, to clarify the record, when a 1099 is completed I know one is for the payer, one is for the payee. Four copies are made. One is supposed to be sent to the IRS and one to the state Department of Revenue, so. [LB469]

STEVE BRUBAKER: If that's the requirement, that's what happens. I just don't (inaudible). [LB469]

SENATOR HARR: And that is required. [LB469]

STEVE BRUBAKER: I just don't know. [LB469]

SENATOR HARR: So thank you. I guess my question is can you explain to me, I'm familiar with FanDuel. I'm familiar with DraftKings. I'm not familiar with any other of these smaller outfits that you represent. I guess my first question is how many of those exist currently in Nebraska. Well, let's start nationally, if you know. [LB469]

STEVE BRUBAKER: Well, there are dozens. There are dozens of small companies. And I think somebody was talking about league commissioners earlier. That's what most of these companies started out as. These are people...these are friends that got together and one guy was the commissioner and then they put that on-line 20 years ago, 20-25 years ago they did. And then they found out, oh, if I'm just the commissioner and I'm on-line, then I can have lots and lots of games on my Web site and I can make some money off of that. So that's how that started in the '80s and '90s, and it continues to this day. [LB469]

SENATOR HARR: And I guess my...again, it's easy for us to see if FanDuel signed up, to see if DraftKings signed up. Let's pretend it is a small operator out of Massachusetts and they have one or two people in Nebraska. How are we supposed to regulate that or know if there's...I joined one of these small leagues that's out of Boston. How does the state know and how does that individual know that, oh, my goodness, I have to notify the state, and the state says, I have to make sure that person is signed up? How do we enforce this law for your people? [LB469]

STEVE BRUBAKER: Well, the regulator would have to know who these entities are and all of, I think, the majority of the small companies are going to do what's right. They're going to follow the law and they're going to register. But how do you regulate somebody that doesn't register and thumbs their nose at the law? I don't have an answer for you for that. I mean you'd have to have...somebody would have to turn them in to you or the regulatory agency, and then they would take whatever is allowed to them by the law. But our guys want to be legal. You got to

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remember, I think one thing people often forget in this is that we like our customers. They like us. We want to keep that relationship going so we're not going to do anything that jeopardizes that relationship. We want satisfied customers. We want people to win the games and be successful at fantasy sports. [LB469]

SENATOR HARR: And I agree and, look, until January 1, Amazon loved me and I loved Amazon and they didn't report the taxes I paid, right? And starting January 1 they started voluntarily paying it. And I'm just trying to figure out...again, the big dogs we can...it's pretty easy for us to figure out who they are. I'm trying to figure out how do we capture to make sure, one, your fans do or your companies do register with us and, two, that we do receive the proper...and I'm sure we will, the 1099s. But you know, as my good friend Ronald Reagan used to say, trust but verify. [LB469]

STEVE BRUBAKER: So what I would recommend, you can go to [SBFSTA.org](http://SBFSTA.org), that's our Web site. [LB469]

SENATOR HARR: Okay. [LB469]

STEVE BRUBAKER: You can look at all of the companies that are members of our group, turn it over to the regulator, say look for these names, look for these companies, find out if they registered or not. That's what I would recommend that you do. There's another group called the FSTA, Fantasy Sports Trade Association. They were probably here last year on this bill. They have quite an extensive list of companies that are not just operators but also vendors to the industry. Spend some time on that Web site, you'll find out who's in the sport and who is...who you should be looking for to make sure they're registered here. Because if they're big enough to be on one of our sites as a company that's interested in the industry, then they've got players in Nebraska. [LB469]

SENATOR HARR: Okay. Well, I appreciate that. Thank you for your testimony here today. Any questions following up based on my questions? Seeing none, thank you, Mr. Brubaker. Thanks for testifying here today. Any other proponents? Proponents for LB469. Seeing none, are there anyone here to testify in opposition to Senator Larson's LB469? Welcome. [LB469]

NATE GRASZ: Thank you, Mr. Chairman and members of the committee. My name is Nate Grasz, N-a-t-e G-r-a-s-z. I'm the policy director for the Nebraska Family Alliance and I'm here to express our opposition to LB469. And I would just like to start by saying that fantasy football is great. There are many people who enjoy playing fantasy sports and that is not the issue. The issue is daily fantasy sports companies organizing betting or wagering on daily and even hourly fantasy sports contests, and the attempt to codify in statute an illegal gambling scheme that

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fleeces citizens out of their money. Wagering on fantasy sports contests is clearly gambling. There is consideration, prize, and chance. Not only do the experts agree on this but even the CEO of DraftKings acknowledged that his company is, quote, almost identical to a casino. One of the most common arguments in support of legalizing fantasy sports gambling is that it is a game of skill and not chance. So first I think we have to ask, do fantasy sports games contain an element of chance? The answer to this is clearly yes. There are uncontrollable components of chance in every fantasy sports contest and players are reliant on a chance to win. Injuries, weather, the way the ball bounces, and a coach's play calling all impact player performance and, consequently, the outcome of fantasy sports contests. This is evident by the fact that people can lose playing fantasy sports despite their supposed skill. In chess, for example, it is solely about one player's skill versus their opponent's. You cannot lose a game of chess because of an unlucky set of chess pieces. Second, in determining whether the element of chance or skill is the dominant factor, we must analyze this question based on the average player, not the skill of a few expert players. An analysis from the Bloomberg Businessweek showed that the majority of daily fantasy sports customers lack the skill to ever have success and are relying largely on chance to earn their money back. We should also look at Nebraska law which prohibits wagering on games regardless of any skill component. The CEO of DraftKings even admitted to this business strategy, writing in an on-line forum that the goal and how we are set up and the tremendous amount of money we spend on marketing are meant to attract and retain the casual players, which in turn should make it an attractive environment for those who profit. In many states, Attorney General Offices have declared that daily fantasy gambling is illegal, including Iowa, Nevada, Illinois, Texas, and New York, among others. DraftKings and FanDuel are now barred from accepting wagers from players in 11 states, which is up from 5...which is up 5 from just a year ago. We also know that the money isn't just going back and forth between players. Numbers from DraftKings showed that 89.3 percent of players had an overall negative return across 2013 and '14. And The Wall Street Journal reported that through the first half of the 2015 Major League Baseball season, 91 percent of all winnings were collected by just 1 percent of all players. Fantasy sports gambling is an on-line...is simply an on-line casino under the guise of fantasy football, and the harms of gambling are serious even if the mechanism is not. And just lastly, since consumers can already play fantasy sports for free it seems that the only real winners in legalizing it are the companies who operate them. Thank you. [LB469]

SENATOR HARR: Great. Thank you. And thanks for wrapping it up at the red light. [LB469]

NATE GRASZ: Yeah. [LB469]

SENATOR HARR: I appreciate it. Any questions for Mr. Grasz? Seeing none, thank you for your testimony here today. [LB469]

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NATE GRASZ: Thank you. [LB469]

SENATOR HARR: I appreciate your taking the time to come and testify. Anyone else here in the opposition? [LB469]

PAT LOONTJER: Good afternoon, Senators. I'm Pat Loontjer, it's spelled L-o-o-n-t-j-e-r, from Omaha. And I'm the executive director of Gambling with the Good life. We're a grass-roots organization and we have successfully fought expanded gambling for the past 22 years. We are a very broad-based coalition with supporters from all walks of life. We include liberal, conservative, all races, all social and economic backgrounds. And during one of our past battles that was an editorial that was cowritten by Senator Chambers and Tom Osborne where they both agreed that they agree on very little but that on any form of expanded gambling that would damage families and businesses in Nebraska they agree on. I have copies of it here but if you don't want that I'll e-mail it to you (laugh) if you want to stay paperless. Warren Buffett has also spoken out on this issue for us as far as Nebraska is concerned. He did a 30-minute video for us that is now on the Internet. It's gone viral all over the world. And I come before you today to ask you to vote no on allowing LB469 even out of the committee. The bill was debated last year for hours and days, and it got nowhere on the floor. But what it did do was take up valuable time and you do not have that this year, especially this year. Fantasy sports betting has the potential of, what Nate said, putting a casino on every electronic device that you own, and it would be devastating to many, many families, maybe not every family but it will be...it will find its niche and there will be families that will be hurt by this and businesses that will be hurt. The saying goes that you can sit at home and lose your home all in one sitting, and we believe that's the gateway for this one. It's nothing but dynamite and it has the power to destroy. The citizens of Nebraska have voted no to expanded gambling twice by an overwhelming majority when it was on the ballot, and just recently we've seen that the million-dollar effort to gather the signatures for another attempt to put it back on the ballot failed miserably. Nebraska voters have said enough is enough. We love our state. We love our families. We love our businesses. And we don't want to leave a legacy for our children and our grandchildren that would hurt them forever. So please vote no on LB469 and preserve our good life. [LB469]

SENATOR HARR: Thank you, Ms. Loontjer. It's nice to see you back in front of this committee. [LB469]

PAT LOONTJER: (Laugh) I've been here longer than all of you guys. [LB469]

SENATOR HARR: I know. I know. Well, it's a relatively young committee... [LB469]

PAT LOONTJER: Twenty-two years. Twenty-two years. [LB469]

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SENATOR HARR: ...this year. We have one returning member besides the Chair, an old goat.  
(Laughter) [LB469]

PAT LOONTJER: But a good one. But a good one. [LB469]

SENATOR HARR: Yeah, a great guy. Senator Krist. [LB469]

SENATOR KRIST: I just want to correct the record. I spent my first two years on this  
committee. [LB469]

SENATOR HARR: That... [LB469]

PAT LOONTJER: Oh. [LB469]

SENATOR HARR: ...I stand corrected. [LB469]

SENATOR KRIST: And now I'm back because I love it so much. [LB469]

SENATOR HARR: Wow! [LB469]

PAT LOONTJER: (Laugh) Because you love it so much. [LB469]

SENATOR HARR: We have a lot of experience here. I did not realize. [LB469]

SENATOR RIEPE: So let the minutes show that Senator Harr was wrong. [LB469]

SENATOR HARR: Again. [LB469]

SENATOR RIEPE: Again. [LB469]

SENATOR HARR: Again. [LB469]

PAT LOONTJER: (Laugh) Well, years ago we had more fun with this committee and I know you  
know I got to bring my talking duck and I got to bring lollypops and all kinds of fun things, but  
Senator Larson is not a lot of fun. (Laughter) [LB469]

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SENATOR HARR: We'll delete that from the record. (Laughter) [LB469]

SENATOR KRIST: Let the record show... [LB469]

PAT LOONTJER: Let the record show. [LB469]

SENATOR HARR: Any other questions for Ms. Loontjer? Seeing none, thank you again for coming here today. We appreciate your testimony. [LB469]

PAT LOONTJER: Good to see you all. Thank you. [LB469]

SENATOR HARR: Anyone else here in opposition to LB469? You may begin when you're ready, ma'am. [LB469]

LORETTA FAIRCHILD: (Exhibit 5) I just need a taller chair. My name is Loretta Fairchild, Ph.D. economist, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d. Thank you to each of you senators for all the hard work and the time and the energy you are putting into making good decisions for Nebraskans as a whole. For LB469, here's your mental quick link--Trojan horse. I'll tell you why, if I'm given enough time. Also, this bill is still a solution looking for a problem. It's already been clarified that people in Nebraska get to do as much sports fantasy betting as they want so I'll skip over that. But it makes it very clear who in Nebraska is begging for this bill to end their deprivations. It's mainly a Trojan horse. Watch out. LB469 is also clearly an unfunded mandate. How so? Any new gambling needs regulation and Nebraska's regulatory framework is so understaffed and underfunded now it can't adequately oversee existing gambling. Where will the tax dollars come from to add on serious new regulation of this complex form of gambling? Why is the cost estimate in the fiscal note being challenged as too high? Pages 5 and 6 have a great list of the complex problem areas that will need constant monitoring, including: keeping kids off; keeping athletes, sports agents, etcetera, off. The human power time needed seems underestimated to me. And given Nebraska's notoriously low salaries for complex jobs in state government, can they even hire such specialized staff? And adding in all these small operators that you're talking about multiplies enormously those costs of regulation. Other economic issues just begging to be discussed including: why is it important to focus on "the winners" and "the losers" in every piece of legislation; why in the fiscal note isn't recurring need for computer reprogramming being included in the ongoing costs; why can no new gambling form be sold to us as "a great source of tax revenue"; why does gambling need more regulation than selling shoes? Finally, it is also very important to notice that passing this law now means that it is much more likely that Nebraska taxpayers will have to fund the legal costs of joining the wrangling about how state and federal law will interact on Internet gambling in general and sports betting in particular. Doesn't it make more sense to shelve LB469 until after the big companies in rich

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states settle all the legal fights with the federal government and then decide what makes sense for Nebraska? Thank you. I sure hope you'll ask me some of these economic questions or others. [LB469]

SENATOR HARR: Thank you, Dr. Fairchild. And you also handed out written testimony... [LB469]

LORETTA FAIRCHILD: Yes. [LB469]

SENATOR HARR: ...that has some additional language as well. [LB469]

LORETTA FAIRCHILD: Yes. [LB469]

SENATOR HARR: So I appreciate that. Any questions for Dr. Fairchild? Seeing none, thank you for coming here today. We appreciate your testimony. [LB469]

LORETTA FAIRCHILD: Thank you. [LB469]

SENATOR HARR: Anyone else here in the opposition? Welcome. [LB469]

JENISE BROWN: (Exhibits 6 and 7) Good afternoon. My name is Jenise Brown, J-e-n-i-s-e B-r-o-w-n. And I guess I would be here today to represent families because my family was devastated by gambling. Okay? We have worked the last...found out in 2012. We have worked the last four years, worked our butts off, to recover from that. We will never recover from that emotionally. I am a changed person since gambling affected my life, but I want to be here to prevent someone else going through what I've been through. This particular form of gambling isn't how I was affected but I'm going to tell you, I had a friend give me a phrase during this period of time. The answer is money. What's the question? This is all about money. Families, if you make a decision for the families of the state of Nebraska based on money, they're going to lose. It's hard for mothers these days to raise children. There are so many things that are thrown at mothers. I look at what I...my mother had to deal with when she raised me and there is not...I was looking at my kids and I named off ten things. I said I didn't...my mother didn't have to deal with seven of those ten things that you young mothers have to deal with these days. And I fear for my young daughter, who's going to have children some day, raising her children in a world that she can't keep up with. Mr. Riepe, their target market here isn't you. Their target market is millennials. And my young boys play fantasy. I'm sure they do. I don't have a clue how to play it. But I'm telling you that businesses have a hard time getting kids, millennials, off of their phones at work during the day and if you keep legalizing things, at some point there you're the first line

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of defense that families have. And so I'm asking you to really research what they're wanting to legalize because it is going to make it very hard for young families in this state to have a healthy environment to raise their children. I have with me some handouts that tells my story. I didn't want to spend my three minutes retelling my story because many of you have heard my story in prior years. But I do have a new handout and I didn't know we needed to send these, so if you'll accept my paper copy I would appreciate it. A gentleman contacted us from The Atlantic and he did a story on gambling and it has...he did a lot of research on gambling, spent a year and a half. And I talked to him on the phone and he said, I worked my butt off doing this research, and so I want you to please...it's a very long article but I want you to please take the time to read it because it will give you what gambling does to the brain. And that's exactly what fantasy football does to these young millennial kids. They're going to be taking the wealth right out of your country, to the future of this state, through young kids, and it's mostly young boys I would guess because girls don't seem to be as much involved in this. But the young boys are. [LB469]

SENATOR HARR: Thank you, Mrs. Brown. [LB469]

JENISE BROWN: Thank you. [LB469]

SENATOR HARR: Any questions for Mrs. Brown, Ms. Brown I should state? Seeing none, thank you for your testimony here today. Look forward to seeing you back again. Any other opponents on LB469? Seeing none, anyone here in the neutral capacity? Welcome to your General Affairs Committee. [LB469]

DEB HAMMOND: Thank you. Chairman Larson and members of the General Affairs Committee, my name is Deb Hammond, spelled Deb, D-e-b, Hammond, H-a-m-m-o-n-d. I'm the owner and director of Choices Treatment Center in Lincoln, Nebraska. Since 2002, Choices has provided treatment to Nebraskans and their families who have developed a gambling problem. And I am a state-certified gambling counselor with the state of Nebraska's Gamblers Assistance Program who serves all of Nebraskans. Currently, we personally are seeing at Choices several clients who have accrued significant debt as the direct result of playing on-line daily fantasy sports. The combined debt of these individuals is well over \$300,000. For one in particular individual it's well over \$80,000 that was lost in a relatively short period of time. Similar to drug and alcohol abuse, disordered and/or problem gambling requires more time and money spent on gambling. In this case to recover and/or...excuse me. Money spent on gambling and/or chasing, and in this particular case to recover the same losses because replicating that winning feeling is the addicted gambler's high for repeated losses. Associated with winning...with trying to win again are the addicted gambler's primary undoing and/or loss of control and reason for seeking treatment. Left untreated, the problem gambling disorder will almost certainly cause financial havoc in their lives and the lives of their loved ones. As a workplace hazard, it can lead to

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financial crimes such as embezzlement and fraud. Under this bill, speed of play and method of payment is unregulated, both of which contribute to the higher losses in shorter periods of time. Right now the Gamblers Assistance Program currently receives 80 percent of its revenue from the Lottery Division and a very small amount from Charitable Gaming, and some from the Health Care Cash Fund. All forms of gambling and/or gaming in Nebraska should be contributing a proportionate share to this program in order to respond to the increased problems that are likely to occur as a result of the expansion of these gaming and/or gambling opportunities. Thank you for your time. Questions? [LB469]

SENATOR HARR: Thank you, Ms. Hammond. Any questions for Ms. Hammond? Senator Riepe. [LB469]

SENATOR RIEPE: Senator Harr, thank you. Thank you very much for being here. I know you declared yourself as neutral but everything that I heard in your testimony was very much in opposition. Is that a fair assumption on my part? [LB469]

DEB HAMMOND: No. [LB469]

SENATOR RIEPE: Why not? [LB469]

DEB HAMMOND: No, because I know for a fact that 80 percent of the population can gamble normally, but there's 20 percent of the citizens of the state of Nebraska that can be affected by or be the problem gambler themselves, therefore are going to have a snowball effect on other individuals. Not my call. I know a lot of people who gamble normally. I know that we have a small portion of individuals in this state who cannot, do not, and will not ever gamble normally. I'm there to treat them. I'm there to provide a safe place for them. I'm there to provide them hope. [LB469]

SENATOR RIEPE: Thank you for your clarification of your position. [LB469]

DEB HAMMOND: You're welcome. [LB469]

SENATOR HARR: Thank you. Senator Blood. [LB469]

SENATOR BLOOD: Thank you, Senator Harr. Actually, I need more clarification. So you're saying basically that it doesn't really matter whether it's this or something else, those 20 percent are going to gamble. [LB469]

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DEB HAMMOND: We already have this gambling in the state of Nebraska. [LB469]

SENATOR BLOOD: Right. [LB469]

DEB HAMMOND: They're doing it on the Internet now. At least if you had some regulation it would be...and they're talking about some type of a ban, a self-exclusion form. We need to hear more about that. We need to know, is there some way to block it for the individual who cannot handle it, who continues to gamble despite the adverse consequences? [LB469]

SENATOR BLOOD: Thank you. [LB469]

SENATOR HARR: Thank you. Senator Brasch. [LB469]

SENATOR BRASCH: Thank you, Vice Chair Harr. And thank you for coming forward today. I thought I understood your neutral position in saying that you're an entity and agency designed to help those who have problem gambling, but there are no funds from fantasy sports coming into your agency, is that correct, because it's not... [LB469]

DEB HAMMOND: No, there are no funds. It's not regulated. Right. [LB469]

SENATOR BRASCH: Right. So there would be, should we regulate this, there would be some funds and perhaps caps put in it that other states have tried to attempt, a limit of losses or...is that what you're also saying, that perhaps this should be...? You're needing money out of it for one, right, to (inaudible). [LB469]

DEB HAMMOND: Well, the Gamblers Assistance Program... [LB469]

SENATOR BRASCH: And I'm saying that respectfully. I'm sorry. I didn't mean...but the program is sending you clients, correct, the unregulated... [LB469]

DEB HAMMOND: The Gamblers Assistance Program? [LB469]

SENATOR BRASCH: ...fantasy sports? [LB469]

DEB HAMMOND: No. No, fantasy sports doesn't send us the client. [LB469]

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SENATOR BRASCH: No, but there's some...they don't send it to you but you're seeing the results of it. [LB469]

DEB HAMMOND: Absolutely. [LB469]

SENATOR BRASCH: You're seeing the results of it. Okay. So there is a problem there. [LB469]

DEB HAMMOND: But there's a problem with any illegal form of gambling... [LB469]

SENATOR BRASCH: Right. [LB469]

DEB HAMMOND: ...that we have in this state. It's not just... [LB469]

SENATOR BRASCH: Okay. [LB469]

DEB HAMMOND: ...this particular piece. [LB469]

SENATOR BRASCH: And the problem that you're seeing, part of it is they are unfunded clients at this point. [LB469]

DEB HAMMOND: No, they're not unfunded. They come through the Gamblers Assistance Program that currently exists. [LB469]

SENATOR BRASCH: So they are...okay. All right. [LB469]

DEB HAMMOND: I'm saying that every time we attempt, as citizens of the state, to legalize more gambling we need to understand that we have a moral obligation to treat the individuals who do not and cannot and the families that cannot survive the gambling problems that exist as a direct result of addicted gambling. [LB469]

SENATOR BRASCH: And the solution you would propose is? [LB469]

DEB HAMMOND: You would have to have language written into the bill that would allow for a percentage of it to go towards the Gamblers Assistance Program. [LB469]

SENATOR BRASCH: Okay. [LB469]

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DEB HAMMOND: The lottery right now is 1 percent of the net proceeds, the first \$500,000 in the first quarter, and then one-half of 1 percent of the remaining dollars; \$250,000 from noncharitable (sic--charitable) gaming...excuse me, \$250,000 from the Health Care Cash Fund; \$50,000 from noncharitable (sic--charitable) gaming currently is how we're funded through the Gamblers Assistance Program. [LB469]

SENATOR BRASCH: And that is what I believe I had heard, that the gambling problem is growing. [LB469]

DEB HAMMOND: In Nebraska? [LB469]

SENATOR BRASCH: In Nebraska. [LB469]

DEB HAMMOND: It's growing all over the country. [LB469]

SENATOR BRASCH: Okay. And which creates a need for more... [LB469]

DEB HAMMOND: It creates a need for definite awareness. [LB469]

SENATOR BRASCH: Okay. All right. I have no other questions. Thank you. [LB469]

DEB HAMMOND: Thank you. [LB469]

SENATOR HARR: Thank you, Senator Brasch. Senator Krist, you have some questions. [LB469]

SENATOR KRIST: Are you testifying? I'll save it. [LB469]

DEB HAMMOND: Thanks. [LB469]

SENATOR HARR: All right. Well, thank you, Ms. Hammond, for your testimony today and for your work on behalf of those with gambling addiction. Anyone else here in the neutral capacity? Hello, sir. [LB469]

DAVID GEIER: (Exhibits 8 and 9) Thank you, Senator Harr, members of the General Affairs Committee. My name is David, D-a-v-i-d, Geier, G-e-i-e-r. I am director of the Nebraska

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Gamblers Assistance Program. Ms. Hammond is one of our contracted counseling services, just so you understand that part. Senator Riepe asked about how the bill this year compares to last year's LB862. This year's bill is a big improvement, frankly, because it does contain quite a long list of consumer protections that were not written into last year's bill. So this is a move in the right direction. Really, the problem is that you're in a quandary. These games are being played now, but they're being played without any regulation or oversight or consumer protection. So the idea is accept the reality that they're being played or not. That's up to you. But if you accept the reality that they're being played then think about consumer protection, and that is provisions of law that protect the people who do go ahead and play these games, put their own money at risk by paying entry fees and then try to win some money back by competition. There are several aspects to this situation that you need to contemplate as well. This is the first time that a game which some people characterize as gambling would be authorized in Nebraska to be run by a for-profit company. Today we have charitable gaming. Those are county, city. There's local government games. We have a state lottery. All of those games are run for the purpose of generating funds for public and charitable purposes. Daily fantasy is run for profit by a profit-seeking company. Again, I'm not saying that's bad, but it's a change in the philosophy of the state of Nebraska regarding the approval of these kinds of activities. You just have to be aware of that. I'm not going to get into the debate about whether it's gambling or not. There really is a debate about it. State of Nevada, which probably represents the most expertise in gambling in the nation, hold that it is gambling. I don't know the answer. How many angels can dance on the head of a pin? It's really hard to figure that part out. But what we do know is that this depends upon the success or failure of the individual players in a sporting event. Now Senator Riepe asked again about sports gambling. Today sports gambling is specifically illegal in all but three states: Nevada, Montana, and Delaware. Don't ask me how Montana and Delaware got their exceptions written into the law, but they did. But anyway, if this becomes a facet of sports gambling, which the professional sport enterprises are very eager to do in the United States, then this could be a foot in the door for that. Ms. Hammond told you that there are already people showing up in our program with problems because of this. It appeals to the youth demographic. The speed of play, ease of play, and the ability to charge the entry fees on your credit card are issues that you need to think about. Now that's my speech. Any questions? [LB469]

SENATOR HARR: Thank you, Mr. Geier. Questions? Senator Brasch. [LB469]

SENATOR BRASCH: Thank you, Mr. Geier, for your testimony and I'm certain that my colleague, Senator Krist, will have further questions. But part of what I'm hearing as well is, because everyone is doing it, does it mean it's right? Sounds like something I've said to teenagers in my lifetime. But is there any way to diminish it? Are you saying like through not allowing credit cards? Apparently that's a major issue. Maybe an age restriction? Earlier we heard it was a Trojan horse of greater problems. So it's hard to try to find what's good and right in it when

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you're seeing the harm it's creating as well and the parachute or the safety net under it isn't enough. [LB469]

DAVID GEIER: Companies have policies to limit play. They have policies to prevent, for example, games that involve high school or college sports. They've picked up on that. They limit play based on the age of the registered players. They're able to limit play based upon the geographical location. For example, Iowa absolutely prohibits this and if you cross the river into Iowa you can't bring it up on your smart phone. They know how to do this. The technology enables them to do that. But again, maybe it's kind of like Internet sales tax, you know? Everybody is doing it. Can you stop it? I don't know that it's possible for this Legislature or the Department of Revenue to stop the proliferation of things on the Internet. That's really the problem. It's out there. And you know, we know that high school students have a casino in their pocket. It's just a very, very difficult situation to address. There can be some limits. There are some limits written in the bill. There are some limits that the companies have promulgated on their Web sites. Perhaps some of the things that they do now voluntarily they should be required to do by law. If you look at some of the other states, and I've given you a little bit of a snapshot of what's done in some other states, that's what they're doing. They're basically saying, okay, basically do...we're going to order you to do or require you to do what you say you're doing. And that's...I think that's probably about as far as you can go if, again, you advance the bill. [LB469]

SENATOR HARR: Thank you. Senator Krist. [LB469]

SENATOR KRIST: I'd like to establish a little bit of a record for our new senators on the committee as well as refresh us, and I won't take very long. I promise. But when did we first become acquainted, 2010, '11? [LB469]

DAVID GEIER: Yeah, somewhere in there, '10, '11, '12, somewhere in there. [LB469]

SENATOR KRIST: At that time the...up to that point, the taxpayers of the state of Nebraska had approved of some gambling in the state and they set a provision whereby a certain percentage and a certain number of dollars from here and from there were going to be put into the Gamblers Assistance Fund. That fund was put in place by our predecessors to fight what inevitably would be the product of gambling for those people who could not handle gambling in a reasonable way. When we became acquainted, what was happening to that fund is it was being distributed, in my opinion, illegally by the Department of Health and Human Services, not prioritizing gambling assistance but used for different purposes. I introduced a bill and we passed a bill that said this organization would stand up. And Mr. Geier I think was the first and only director so far. [LB469]

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DAVID GEIER: I've been the director for three years now, Senator. [LB469]

SENATOR KRIST: Okay. You went from treatment centers, rough number, how many when you started? [LB469]

DAVID GEIER: Oh, I'd have to... [LB469]

SENATOR KRIST: Just rough. [LB469]

DAVID GEIER: There were...we...there were about a dozen counselors in, let me think, one, two, three, about six different locations, six cities, six towns. [LB469]

SENATOR KRIST: And where are you now? [LB469]

DAVID GEIER: I think we're in about...we have 32 counselors in 13 or 14, 15 communities around the state. We've spread. We're moving mainly west. We were anticipating some expansion into South Sioux City, Columbus, Hastings, some of these other areas around here, to Fremont perhaps. I don't know. We're trying to get it all over the state. [LB469]

SENATOR KRIST: So your folks are doing a wonderful job. Let's put that on the record also. But in reality what we see is those services are required and your organization has identified the additional requirements and continue to grow as best you can. [LB469]

DAVID GEIER: Uh-huh. [LB469]

SENATOR KRIST: The problem is in the last few years Mr. Geier and I and a few others have been trying to find a funding source that allows those services to be provided, because the inevitability is whether I go to Council Bluffs or Las Vegas or get on-line or do whatever I do, there's a risk that I'll become addicted and have some behavior that's going to have to be looked at in one way or another, clinically or just through therapy. Again, you guys are doing a great job. Now the bottom line to the neutral testimony that I will say is that these folks are realistic about (inaudible) gambling and they're in the prevention mode in terms of the behavior that follows. And for that, you're going to have to have additional funding. So for this bill to get my support at all it's going to have to identify a certain percentage of proceeds that are going to go to the Gamblers Assistance Fund, as I think any form of gambling should have to pay in, as Ms. Hammond said, their fair share or a percentage or whatever is there. I think that's important for you to understand because it...although people will say the people of Nebraska have spoken in terms of the increased opportunity to gamble or the gambling that would be brought up in the

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future, the bottom line is they can get it other places than Nebraska and they can get it through telecommunications and any number of devices. And we still have to keep, I think, a service available. So, see? That wasn't very long. [LB469]

SENATOR HARR: That wasn't nearly as difficult as I thought it would be. Thank you. (Laughter) Senator Riepe. Well, just a second. Did you want time to respond to anything Senator Krist said, Mr. Geier? [LB469]

SENATOR KRIST: Yeah. I'm sorry. [LB469]

DAVID GEIER: Well, I would say just one more thing, just to add a little bit. [LB469]

SENATOR HARR: Please. Sorry. [LB469]

DAVID GEIER: He didn't ask a question. I'll pretend he did. [LB469]

SENATOR KRIST: Do you have any comments on what I just said? [LB469]

DAVID GEIER: (Laugh) [LB469]

SENATOR HARR: There we go. [LB469]

DAVID GEIER: (Exhibit 10) Prevention and education is a very big part of what we should be doing and we haven't been doing enough of it and we have to do more. I gave you just a snapshot of a survey that some of our people did in Nebraska colleges just in the last few months. Thirty-eight percent of the of these college students who are playing daily fantasy sports are exhibiting at least one of the behavior characteristics of addicted gambling. And what we're concerned about is if you start at that level, how long will it take before you get to the next and the next and the next till you start to just demonstrate the characteristics that are true addiction? And that's what we're concerned about. We want to try to prevent it from getting worse. For that, we do need more money. That's all. [LB469]

SENATOR KRIST: Thank you, David. [LB469]

SENATOR HARR: Thank you. Senator Riepe. [LB469]

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SENATOR RIEPE: Thank you, Senator Harr. Mr. Geier, thank you for being here. I'm a big advocate of prevention for a whole lot of things, whether it's healthcare or gambling as such. My question, and what I think I heard earlier was there was a 1 percent tax/fee on the gambling piece. Is that true? [LB469]

DAVID GEIER: What's coming...there's no...there's nothing in this bill for this program. [LB469]

SENATOR RIEPE: No, but I (inaudible) for other gambling. [LB469]

DAVID GEIER: Okay. Our funding now that comes into the program that I manage from the state lottery, in the constitution, \$500,000 plus 1 percent of the rest of the profits from the lottery games, from all of them. That produces about \$900,000 a year. In addition, there's another statute that we administer 5 percent of the Lottery Division's advertising budget. We have an agreement with them to actually take over that. That's about \$300,000 a year, so that gets us to about \$1.2 million that basically comes from state lottery. We get \$50,000 from charitable gaming, and then we get \$250,000 from Health Care Cash Fund, which is a recurring annual appropriation. So the revenue coming in is about \$1.5 million right now. The expenditures have been running about \$1.7 million. This year they might go to \$1.8 million. We're not sure yet. So we are spending more than our income. The only way we can do that is that we have a carryover surplus from Health and Human Services' days that we've been working off. It's now down to about \$1.3 million. If we keep depleting them at the rate of \$200,000 or \$300,000 a year, it's going to disappear and then we're going to have an operations crunch. So what we're trying to do is get ahead of it, make the program sustainable in the long run. The small amount of revenue that would be generated by the registration fees that are specified in this bill probably wouldn't make much of a difference. You're talking, if the fiscal note says...projecting \$40,000 a year, you know, that's...I mean Revenue is going to have to do some things, setting up the regulations. There will be...have to do some programming. There's going to be some expenditures over there. So there isn't any leeway in this bill to improve the funding of the Gamblers Assistance Program. Now today the program probably doesn't need that money, but to be sustainable in the long run something has to be done. But that's for another day and another committee. [LB469]

SENATOR RIEPE: So... [LB469]

SENATOR HARR: That is for the Revenue...oops, sorry. Go ahead. [LB469]

SENATOR RIEPE: (Inaudible) Senator. I had a follow-up question. So if we amended this legislation to have a 1 percent fee/tax, would that meet the standard? [LB469]

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DAVID GEIER: Well, we don't... [LB469]

SENATOR RIEPE: Or would you rather have... [LB469]

DAVID GEIER: Here's the problem. [LB469]

SENATOR RIEPE: Would you rather have it be 10 percent? [LB469]

DAVID GEIER: (Laugh) But the problem is that we...1 percent or 10 percent of what? If these companies had to separately itemize the revenue that they receive from the state of Nebraska and then pay over a certain amount based upon a percentage of that, which is what the bill talks about doing, I think it said 6 percent up to a limit in subsequent years. So it's basically a retroactive fee. You know, there could be a way possibly to do it. But without knowing what dollars we're talking about, especially if it's capped at \$10,000, it isn't going to be really meaningful in terms of the sustainability of the program. [LB469]

SENATOR RIEPE: So you might have a high level if the honor system would necessarily work. [LB469]

DAVID GEIER: (Laugh) I'm not really sure how we would make it work, yeah. [LB469]

SENATOR RIEPE: Thank you very much. [LB469]

SENATOR HARR: Excellent. [LB469]

DAVID GEIER: Thank you, Senator. [LB469]

SENATOR HARR: Follow-up questions? Great. [LB469]

DAVID GEIER: Okay. Thank you. [LB469]

SENATOR HARR: I appreciate your testimony here today, Mr. Geier. Anyone else here in the neutral capacity? Seeing...oh, we have I think...hello and welcome to your General Affairs Committee. [LB469]

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CHAD SCHROEDER: Hi. Good afternoon. Thanks for your time in addressing this important issue. My name is Chad Schroeder, C-h-a-d S-c-h-r-o-e-d-e-r. I'm from Omaha, Nebraska, and I'm here representing fantasy sports players in Nebraska as well as all over the United States. Reason I felt the need to come here today is I'm one of the most experienced fantasy sports players there are. And while I've played quite a bit at FanDuel and DraftKings, the daily games that a lot of the attention has been given to today, my primary expertise and my primary occupation is full-season fantasy sports. There's quite a difference between the two and, really, the laws shouldn't even be written the same regarding both. When I...I think a lot of you know what daily is. You make your lineup and your lineup wins or loses that day, and you move on to the next day if you want to play again. It's a very skillful game. It's not gambling, in my opinion, not even close. But my primary expertise, again, is in the full-season. That's what roughly 300,000 Nebraskans play. They play for various amounts of money. They get together with their friends and family and run their fantasy football drafts at the beginning of the season. And then they manage their team throughout the whole entire season, making a series of sometimes up to 1,000 different decisions during the season. You get attached to your team. This something that was carved out nationally in the Unlawful Internet Gaming (sic--Gambling) and Enforcement Act a long, long time ago as being legal. I just happen to do it on a much higher stakes level. I play some of the biggest contests around and there should be no debate about the fact that it's a skillful game and not a game of luck. It's not even close. The tax issues brought up earlier, 1099s, all the full-season companies send me a 1099 not only for my net winnings but gross winnings. There's a...it's an unbelievable tax amount that I've paid in personally, not to mention all other Nebraskans, and the reason I'm neutral is not due to the legality of this whole scenario. I completely believe it's a game of skill and definitely should be legalized. It is nationally. I'm...the parts that...or the amendments that you're still trying to get figured out, that's why I'm in the neutral camp. There are some...a few problems but they don't even come close to...become as important as the issue of legal or not. That's by far the most important thing. And that's the reason I would like to. I'm very, very experienced. Mr. Larson is not here today. I was hoping to get a brief chance to talk to him. I would like you to pass on that I would like to talk with him and be a part of the amendment process. I offer a very unique perspective being a player, not a lobbyist or anything like that. I know what needs to be regulated because I've had some issues in the past (inaudible). [LB469]

SENATOR HARR: Let's see if we have any questions for you, Mr. Schroeder. Thank you for coming to testify, by the way. Let's start on my right, Senator Riepe. [LB469]

SENATOR RIEPE: Thank you for being here. I guess my question is this: Do you liken sports fantasy to being a day trader in the stock market? [LB469]

CHAD SCHROEDER: No. You pay...full season, again, is my area of expertise and, again, I don't think that it should be even included with daily in these laws. It's nowhere near like being a

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day trader. I used to be a broker actually, so I'm familiar with that. Full-season fantasy sports, you draft your team at the beginning of the year and then you manage it to try to improve it throughout the season. Some leagues you can trade with your league mates to try to make your team better and their team better. Eventually, somebody wins. It's nothing like day trading at all, in my opinion. [LB469]

SENATOR RIEPE: Okay. Thank you. [LB469]

SENATOR HARR: To my left, Senator Brasch. [LB469]

SENATOR BRASCH: Thank you, Vice Chair Harr. Thank you for coming forward today. You used to be a day trader and is your occupation now this, is playing full-season fantasy sports? [LB469]

CHAD SCHROEDER: Yeah. [LB469]

SENATOR BRASCH: It is. And when you're talking about it being a skill, are there schools, classes? You know, are you accredited? Is this a skill that people can be trained to and have different certification levels to be qualified to play these skills? And what I'm thinking is that a surgeon has a skill and a surgeon had to do so much internship medical work to be able to be skilled to perform life and death practices, where you're saying it's skilled in the sense that you have an aptitude, or do you have credentials for this? [LB469]

CHAD SCHROEDER: I don't have any credentials. Anyone can play but it takes a lot of years of experience to... [LB469]

SENATOR BRASCH: But the chance is we're seeing the results from people here that are saying over \$1 million just in their small area have lost money, that there are more losers than there are winners. Is that correct? [LB469]

CHAD SCHROEDER: And I...there's definitely, in full season, which is my primary area of expertise, there's definitely going to be more losers than winners because of the fact that most leagues are about 12 teams and 3 people end up in the money in that particular league. [LB469]

SENATOR BRASCH: So there's some chance, there's quite a bit of chance probably. Is there a greater percentage of chance? [LB469]

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CHAD SCHROEDER: No, there's not. It's not a game of chance whatsoever. It's a game of skill. There's skill in drafting your team. There's skill in conducting trades with your league mates. [LB469]

SENATOR BRASCH: So why are people walking away unable to pay their bills, they're seeking counselors? [LB469]

CHAD SCHROEDER: People that play full-season fantasy sports do not walk away... [LB469]

SENATOR BRASCH: They don't? [LB469]

CHAD SCHROEDER: No. [LB469]

SENATOR BRASCH: They always walk away... [LB469]

CHAD SCHROEDER: You only get an opportunity to play full-season fantasy sports one time a year. You pay your entry fee at the beginning of the year and you don't have another opportunity to play it again for a whole nother calendar year. [LB469]

SENATOR BRASCH: Okay. [LB469]

CHAD SCHROEDER: You can only afford to play at that time in August or September what you can afford to play for, you know? And there's no opportunity, if your team starts off... [LB469]

SENATOR BRASCH: So everyone walks away with at least what they put into it if not more. There is no lost revenue for anyone, or is there, playing full season? [LB469]

CHAD SCHROEDER: If you play in a league of 12, like I mentioned, 9 of the 12... [LB469]

SENATOR BRASCH: Right. [LB469]

CHAD SCHROEDER: ...are going to lose their entry fee. [LB469]

SENATOR BRASCH: Nine out of twelve lose. [LB469]

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CHAD SCHROEDER: And the other...and three people, or however that particular league works, will share. [LB469]

SENATOR BRASCH: And can you give us an idea what that entry fee is? What did they have to pay to get into your league? [LB469]

CHAD SCHROEDER: There's probably leagues in Nebraska that are zero dollars up to... [LB469]

SENATOR BRASCH: For full season? For full season? [LB469]

CHAD SCHROEDER: There's probably some people that play for fun. And there's probably leagues in Nebraska that are played for fun that are probably up to... [LB469]

SENATOR BRASCH: Can you give us the... [LB469]

CHAD SCHROEDER: ...\$2,000 or \$3,000 entry. [LB469]

SENATOR BRASCH: All right. And what is the maximum? And minimum is zero. What is the maximum fee for...that you're aware of? [LB469]

CHAD SCHROEDER: The maximum, the maximum fee is unlimited. If you wanted to establish a fantasy football league of 12 people... [LB469]

SENATOR BRASCH: So it's a wagering, basically. The fee is the (inaudible) wagering. [LB469]

CHAD SCHROEDER: I didn't say that. [LB469]

SENATOR BRASCH: I'm just asking, similar to, akin to (inaudible)? [LB469]

CHAD SCHROEDER: No, not at all. [LB469]

SENATOR BRASCH: No. Not at all. [LB469]

CHAD SCHROEDER: No. [LB469]

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SENATOR BRASCH: Just the fees are whatever you feel like paying to enter. There has to be some business model there, I'm thinking. [LB469]

CHAD SCHROEDER: The 12 people that join the league, they... [LB469]

SENATOR BRASCH: And maybe that's just...I'll get that information elsewhere. There apparently isn't a simple business set where a fee is X amount of dollars for... [LB469]

CHAD SCHROEDER: It all depends on the particular league and what the 12 people involved in the league want to play for. [LB469]

SENATOR BRASCH: Okay. [LB469]

CHAD SCHROEDER: What kind of...if they want to play for fun or if they want to put in 10 bucks each or whatever they want to play for. It's completely up to them. [LB469]

SENATOR BRASCH: And ones that play for fun probably aren't individuals who have a gambling issue. It's those who are... [LB469]

CHAD SCHROEDER: I don't think...I don't think...I honestly don't think anyone that plays full-season fantasy sports has a gambling issue. If they have a gambling issue it's unrelated to playing full-season fantasy sports. There might be people in a gambling issue that also play fantasy sports, but fantasy...full-season fantasy sports do not in any way create a gambler because there's no way it can. There's no...you can't play again tomorrow. You can't play again for another year so it's not a compulsive thing. [LB469]

SENATOR BRASCH: Okay. I have no other questions. Thank you. [LB469]

CHAD SCHROEDER: Okay. [LB469]

SENATOR HARR: Thank you, Senator Brasch. Mr. Schroeder, you can play, just to clarify on these season-long ones, I assume from your testimony that you play the NFL. Is that correct? [LB469]

CHAD SCHROEDER: And baseball. [LB469]

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SENATOR HARR: And baseball. So you could do...start at the beginning of baseball season, which pitchers and catchers report here in a short...I think it's 13 days. [LB469]

CHAD SCHROEDER: It's a long season. [LB469]

SENATOR HARR: Right? But you can do it...so you can do it, in March you can do for baseball, and then it's probably August for NFL. Is that correct? [LB469]

CHAD SCHROEDER: Yeah, around August is when the drafts start in. [LB469]

SENATOR HARR: Okay. Well, I appreciate your testimony here today and your expertise and I know Senator Larson, I hope, will be in contact with you, so. [LB469]

CHAD SCHROEDER: I hope so too. I can barely scratch the surface on what I can help you guys with... [LB469]

SENATOR HARR: In three minutes, I know. It's kind of frustrating at times that you come all this way and only get three minutes, so. [LB469]

CHAD SCHROEDER: I'm more than happy to come here as many times as possible. I want Nebraska...the other point I want to make is it's been mentioned that ten states have created some things already. There's still 40 more to come and there's some problems with those 10 states, in my opinion, you know, and I won't get into them today but hopefully I can with Mr. Larson. [LB469]

SENATOR HARR: Yeah, we'd love that. Thank you. [LB469]

CHAD SCHROEDER: But Nebraska has got a great opportunity to set the foundation for the states yet to come and do this in a way that actually corrects some of the problems that people are concerned about. [LB469]

SENATOR HARR: All right. [LB469]

CHAD SCHROEDER: And there's nobody better to help do that than me. I know (inaudible). [LB469]

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SENATOR HARR: Thank you, Mr. Schroeder. I appreciate your testimony here today. Is there... [LB469]

CHAD SCHROEDER: You're welcome. [LB469]

SENATOR HARR: (Exhibits 11, 12, and 13) Thank you. And thanks for coming down here. Is there anyone else here in the neutral capacity? Seeing none, I have a couple of letters here in support. Looks like I have support from the Student Sports Protection Alliance; support with the caveat of the amendment from Yahoo!; I have a letter of support from the Omaha Storm Chasers, which was stated earlier; and we have a letter here in the neutral from the Commission on Problem Gambling with Mr. David Geier, who testified here earlier. With that, I believe that ends the testimony on LB469. Thank you. And I believe we are done for today, so thank you again for coming. [LB469]